



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER (RESIDENTIAL  
PROPERTY)**

**Case Reference** : **CHI/00MR/MNR/2022/0108**

**Property** : **Ground Floor Flat  
83 Frensham Road  
Southsea  
Hampshire  
PO4 8AE**

**Landlord** : **Mr Mark Howard**

**Representative** : **Tully & Co Estate & Letting Agents**

**Applicant Tenant** : **Miss Sarah Katherine Jones**

**Representative** : **None**

**Type of Application** : **Determination of a Market Rent sections  
13 & 14 of the Housing Act 1988**

**Tribunal Members** : **Mr I R Perry BSc FRICS  
Mr J S Reichel BSc MRICS  
Mr M C Woodrow MRICS**

**Date of Inspection** : **None. Decided on papers**

**Date of Decision** : **30<sup>th</sup> November 2022**

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**DECISION**

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## **Summary of Decision**

1. On 30<sup>th</sup> November 2022 the Tribunal determined a market rent of £830 per month to take effect from 17<sup>th</sup> October 2022.

## **Background**

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 18<sup>th</sup> August 2022 the Landlord's Agent served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £950 per month in place of the existing rent of £765 per month, an increase of more than 24%, to take effect from 17<sup>th</sup> October 2022. The notice complied with the legal requirements.
4. On 2<sup>nd</sup> September 2022 the Tribunal received an application dated 31<sup>st</sup> August 2022 from the Tenant under Section 13(4) (a) of the Housing Act 1988.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and Tribunal hearings in person until further notice.
6. The Tribunal issued directions on 3<sup>rd</sup> October 2022 informing the parties that, unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos and were informed that the Tribunal would seek to view the property on the internet.
7. Both parties submitted papers by the specified dates and the papers were also copied to the other party.
8. On 8<sup>th</sup> November 2022 the Landlord applied to the Tribunal for an interim order as he wished to challenge "numerous inaccuracies identified in the Applicant's statement". On 15<sup>th</sup> November 2022 further directions were issued to both parties who then made further submissions to the Tribunal, also copied to the other parties.
9. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 30<sup>th</sup> November 2022 based on the written representations received.

## **The Property**

10. From the information given in the papers and available on the internet, the property comprises a self-contained ground floor flat in a converted two storey house at the junction of Frensham Road and Heyshott Road. It is located within a long established residential area of Southsea, about 1 mile from Eastney Beach. Local shops, schools and other amenities are available and there is a wider range of amenities and facilities within the city of Portsmouth.

## **Submissions**

11. In her original application to the Tribunal the Tenant states that the Tenancy commenced on 17<sup>th</sup> May 2019 at an initial rent of £690 per month. By agreement the rent was increased in August 2021 to £765 per month. She describes the accommodation as comprising one Bedroom, one Kitchen, one Bathroom, one Lounge and a small Courtyard.
12. The Tenant says that a fridge/freezer and cooker are provided by the Landlord and that during her occupancy she has cleaned and decorated the property and provided blinds to the windows.
13. In his original submission to the Tribunal, the Landlord says that the property comprises a bay forecourt, two Bedrooms, one Lounge, one Bathroom, rear garden with its own entrance. He also states that it has central heating and double glazing, and that curtains and carpets are supplied by him. The Landlord refers the Tribunal to a Rightmove listing when the property was marketed which describes the property as having two bedrooms, a small garden and that street parking is available.
14. The Landlord states that he has recently let the first floor flat within the same building for £950 per month via Flats in Southsea. He also provides details of other two-bedroom properties available to rent in the general area of Frensham Road.
15. The Landlord made a further submission to the Tribunal on 31<sup>st</sup> October 2022 reiterating that the property has the benefit of a shared entrance and its own rear entrance through the garden and that he has made improvements to the property including flushing through the radiators and installing a new boiler.
16. In her Rent Appeal Statement sent to the tribunal with her email of 30<sup>th</sup> October 2022 the Tenant states that “this is a one-bedroom property under my original contract”. She also states that the curtains were unusable/broken and reiterates that no washing machine is provided by the Landlord. She confirms that there is permit parking, states that the garden is a small courtyard, and that she has carried out general decoration, both inside and out, and has fitted blinds to the windows. She states that the proposed rent increase of 25% is unfair and provided photographs of the property taken when she took occupation.
17. On 21<sup>st</sup> November 2022 the Tenant says again that her contract states that there is a reception room and one bedroom. She adds that she is not averse to an increase in rent but considers a 25% rise to be a severe jump. She also provided details of a 2-bedroom house with 2 living rooms available to let nearby for £950 per month.

## **The Law**

S14 Determination of Rent by First-tier Tribunal

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-
  - (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
  - (b) which begins at the beginning of the new period specified in the notice;
  - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
  - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded-
  - (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;
  - (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-
    - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
    - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
  - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.
- (3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates, or the following conditions are satisfied, namely-
  - (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
  - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and
  - (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.
- (4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes

any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

### **Consideration, Findings and Valuation**

18. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only with no oral hearing. Having read and considered the original papers submitted by the parties, together with their second submissions, and viewed details of the property on the internet, the Tribunal decided that it could do so, although its deliberations would have been assisted if a floorplan had been provided.
19. From the internet the Tribunal found that the property has the benefit of an Energy Performance Certificate 'C' rating. The Tribunal also viewed details of when the property was listed in the past with the accommodation described as having 2 bedrooms and a Living Room/Kitchen. Photographs show the garden to be a courtyard and that if the 2 principal rooms are both used as bedrooms, then there is only a small living space off the Kitchen. The Tribunal was also able to view details of the first floor flat referred to by the Landlord which was said to have been recently let at £950 per month. From the internet the first floor flat appears to be in much better order than the ground floor flat, having a modern bathroom and kitchen fittings.
20. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy. The personal circumstances of the Tenant or Landlord are not relevant to this issue although the Tribunal may adjust the rent to take account of any tenant's improvements.
21. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Southsea and Portsmouth the Tribunal decided that the market rent for a 2-bedroom flat with separate living room and courtyard, all in good order, would be £950 per month.
22. However, it is apparent that if the 2 main rooms within the property are both used as bedrooms, then there is only a small living space off the kitchen. The theoretical full market rent of £950 needs to be adjusted to reflect this.
23. In addition, the Tribunal needs to reflect the Tenant's provision of a washing machine and window blinds replacing the unusable curtains which would not routinely be the case in a fresh open market letting, and that the internal condition is tired in places despite having been redecorated in part by the Tenant.
24. Based on the knowledge and experience of its members, who are all experienced Chartered Surveyors, the Tribunal finds that the market for this type of property is very sensitive to condition and inventory. The Tribunal decided the following adjustments to a full rent should be made:

|  |       |
|--|-------|
| Tenant's provision of washing machine              | £10   |
| Adjustment for Living Room/Kitchen                 | £50   |
| Tenants provision of blinds                        | £10   |
| Tired decoration and decoration improved by Tenant | £50   |
|  | _____ |
| TOTAL per month                                    | £120  |

25. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

### **Determination**

26. The Tribunal therefore decided that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £830 per month.
27. The Tribunal directed that the new rent of £830 per month should take effect from 17<sup>th</sup> October 2022, this being the date specified in the notice.

### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to [rpcsouthern@justice.gov.uk](mailto:rpcsouthern@justice.gov.uk) as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.