



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

Case Reference : **CHI/23UB/MNR/2022/0107**

Property : **Flat 3, 24 Clarence Street, Cheltenham,
Gloucestershire GL50 3NU**

Applicant : **Ms A Nordenlund (Tenant)**

Respondent : **Mrs S Hepner (Landlord) C/o Morgan
Associates Ltd**

Date of Application : **31st August 2022**

Type of Application : **Sections 13 and 14 of the Housing Act 1988**

Tribunal : **Mr R T Brown FRICS Chairman
Ms A Clist MRICS
Mr M Donaldson FRICS MCI Arb MAE**

Date : **1st December 2022**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 1st December 2022 that the rent will be **£670.00 per calendar month (pcm)** with effect from 1st September 2022.
2. By an application dated 31st August 2022, the Tenant of the above property referred a notice of increase in rent served by the landlord under section 13 of the Housing Act 1988 to the Tribunal.
3. The landlord's notice dated the 13th July 2022 proposed a rent of **£670.00 pcm** with effect from 1st September 2022, in place of the current rent of £650.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and commenced 1st September 2021. The tenancy is subject to the Landlord's repairing obligations defined in Section 11 the Landlord and Tenant Act 1985.

Property and Inspection

5. Following the Directions dated 28th October 2022 and the explanation contained therein, the Tribunal did not inspect the premises.
6. Extracting such information as it could from the papers supplied to the Tribunal by the parties, by reference to information publicly available on the internet and with the benefit of its knowledge and experience the Tribunal reached **the following conclusions and found as follows:**
7. The property is located in Cheltenham city centre.
8. The property comprises a single glazed self contained 3rd floor flat above commercial retail property.
9. The accommodation comprises: Combined living/dining/kitchen, bathroom and double bedroom. Outside: Secure bicycle store.
10. The property is let unfurnished with floor coverings, curtains, hob, oven, dishwasher fridge and washing machine.
11. The Tribunal assumed that all mains services are connected. Heating is by electricity.

Documents supplied to and considered by the Tribunal

12. Tribunal Directions.
13. Landlord: Tribunal Reply Form.
14. Tenant: Application, Reply Form, Notice of Increase and Tenancy Agreement.

Landlord's Representations (summarised):

15. The Landlord says in the Reply Form and attachments:
The property was fully refurbished in 2020 to a high standard.

16. As to rental value the Landlord's agent says there are five flats in the property:

- a) Flat 2: Achieving £695.00 pcm since October 2021– 44 Sqm.
- b) Flat 1: Achieving £685.00 pcm since March 2022 -45 Sqm

17. The Applicant refers to 2 properties as comparable:

- a) Flat 1, 65-67 High Street: £595.00 pcm The property is not comparable being located at a less desirable location and fitted to a lower standard.
- b) Osborne Lodge: £695.00 pcm. This property is smaller (41 sqm) and the finish and specification is lower.

Tenant's Representations (summarised)

18. The Tenant says in the Application, Reply Forms and an email dated 25th November 2022:

- a) No one in the property has access to read their electricity meters or turn off the main supply.
- b) The electricity supply was faulty during the first 6 months of the tenancy with a number of outages. This was reported to the agent. The flat is powered solely by electricity when there was an outage there was no heating, cooking or light in the flat.
- c) The bus service has not returned to pre Covid levels and is unreliable with buses cancelled. National Express Bus Stop round the corner from the flat.
- d) Regular disturbance from neighbours in the flat below who also appear to be using the Tenant's washing machine (located in communal cupboard). Neighbours and visitors constantly ring the bell to gain access to other flats in the building.
- e) Noise and disturbance from commercial deliveries early in the morning and from customers of the surrounding entertainment premises.
- f) Noise and disturbance from traffic.
- g) The fridge is located in line with the window and on hot days the contents warm up leading to food spoil.
- h) Apparently, my flat is the largest however I was told when I viewed that it was the smallest.
- i) There is a continual condensation problem due to poor ventilation.
- j) The noise and disturbance does not provide 'quiet enjoyment'.

19. As to the proposed rent the Tenant says she does not believe the flat would achieve £670.00 pcm.

- a) 65-67 High Street has no size but looks bigger in the photographs and has a full lounge and kitchen as opposed to Flat 3 which is open plan.
- b) The agent currently has a 2 bedroom flat on the market further down the High Street for £595.00 pcm yet say Flat 3 should be £670.00 pcm.
- c) The agent also has a spacious regency flat in the Park (a very desirable and safe area) with parking asking £695.00 pcm. Flat 3 has no parking.

The Tribunal's Deliberations

20. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
21. 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.
22. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at D and expiring on 11th August 2030. The legal minimum standard for letting a property is rating E.
23. Based on the knowledge of its members the Tribunal finds that the market for this type of property is very sensitive to condition and inventory.
24. The Tribunal comments that the noise and disturbance referred by the Tenant is common to all City centre living and is already reflected in the rents paid both at the subject property and similarly situated/located buildings in the city-centre. Further it's not uncommon for apartments in a communal building to experience noise from adjoining occupiers. The term 'quiet enjoyment' has been misconstrued by the Tenant.
25. The Tribunal, acting as an expert tribunal, determined what rent the landlord could reasonably be expected to obtain for the subject property in the open market if it were let today in the condition and subject to the terms of such a tenancy that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels. Having done so, it concluded that such a likely market rent for a similar modernised property in fair condition with modern central heating, modern bathroom and kitchen facilities, floor coverings, cooker, washing machine and an EPC Rating of E or above would be **£670.00 pcm.**
26. The Tribunal, after careful consideration of the current market conditions and the apparent condition (as submitted by the parties) of the subject property determined that the issues raised by the Tenant are reflected in the rent and the evidence of rents within the building is supportive of such.
27. Accordingly, the Tribunal determined that the market rent for the subject property is **£670.00 pcm.**
28. The rent will take effect from 1st September 2022 being the date specified by the landlord in the notice of increase.

Relevant Law

29. Sections 13 and 14 of the Housing Act 1988.
30. Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (SI 2015 No.620)

RIGHTS OF APPEAL

1. A person wishing to appeal this decision (on a point of law only) 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 rpsouthern@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.