



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

**Case reference** : **CHI/29UQ/MNR/2022/0113**

**Property** : **3 & 4 Fairview Cottages, Back Road,  
Sandhurst, Cranbrook, Kent, TN18 5JT**

**Applicant Tenant** : **Mrs A T Rogers**

**Representative** :

**Respondent Landlord** : **Long Term Investments (PRS 1)**

**Representative** : **Lifespace - Ms Lucy Palmer**

**Type of application** : **Determination of a Market Rent  
Sections 13 & 14 of the Housing Act 1988**

**Tribunal member(s)** : **Mrs J Coupe FRICS (Chairman)  
Mr C Davies FRICS ACI Arb  
Mrs A Clist MRICS**

**Date of decision** : **8 December 2022**

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**DECISION**

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## **Decision of the Tribunal**

**On 8 December 2022 the Tribunal determined a Market Rent of £920.00 per calendar month to take effect from 1 October 2022.**

### **Background**

1. By way of an application received by the Tribunal on 28 September 2022, the Applicant tenant of 3 & 4 Fairview Cottages, Back Road, Sandhurst, Cranbrook, Kent, TN18 5JT (“the property”), referred a Notice of Increase in Rent (“the Notice”) by the Respondent landlord of the property under Section 13 of the Housing Act 1988 (“the Act”) to the Tribunal.
2. The Notice, dated 5 August 2022, proposed a new rent of £1,025.00 per calendar month, in lieu of the passing rent of £657.92 per calendar month, to take effect from 1 October 2022.
3. The tenant occupies the property on an assured periodic tenancy. The tenant’s application stated that her tenancy commenced on 31 March 1979 but that there is no written Tenancy Agreement. The tenant is responsible for internal decorations, whilst the landlord is responsible for external repairs and decoration.
4. On 14 July 2022, the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No such objections were received.
5. The Directions required the landlord and tenant to submit their completed statements by 9 November 2022 and 23 November 2022 respectively, with copies also to be sent to the other party. Both parties complied.
6. Having reviewed the papers the Tribunal concluded that the application could be determined fairly, justly and efficiently on the material available without an inspection, consistent with the overriding objective of the Tribunal. The Tribunal viewed the property and locality online via publicly available platforms.
7. The Tribunal also had sight of a previous Tribunal decision handed down in April 2019, which was determined following a site inspection. The Tribunal found the description of the layout of the property within that decision a useful aide.
8. These reasons address in summary form the key issues raised by the parties. They do not recite each and every point identified or disputed. The Tribunal concentrates on those issues which, in its view, go to the heart of the application.

## **Law**

9. In accordance with the terms of Section 14 of the Act, the Tribunal is required to determine the rent at which it considers the subject property might reasonably be expected to let on the open market, by a willing landlord, under an assured tenancy, on the same terms as the actual tenancy.
10. In so doing, and in accordance with the Act, the Tribunal ignores any increase in value attributable to tenants' improvements and any decrease in value due to the tenants' failure to comply with any terms of the tenancy.

## **The property**

11. The property, built originally as two adjoining cottages within a row of four, is now occupied as an end-terraced house. The property is of Grade II Listed status and is believed to date from the late 18<sup>th</sup> century to early 19<sup>th</sup> century. The property is constructed of brick walls at ground floor level and traditional weatherboarding to the first floor. The multi-pitch roof is of gambrel design, part tile and part slate clad.
12. The property is located within a semi-rural position, close to main road links to the town of Ashford, which provides the usual range of facilities. Local amenities are limited.
13. The accommodation is laid out over three floors and, having formerly been two cottages, is somewhat inconveniently arranged. At ground level, the property comprises a kitchen; second kitchen/utility; 2 reception rooms; cloakroom/WC. Two bedrooms are located on the first floor. A bathroom and a further room, currently utilised as a bedroom, are found on the second floor within the attic space.
14. Gardens are included to the front and rear of the cottage. A shared driveway leads to an area within which the tenant has created two parking spaces.
15. The property is heated by electric heaters provided by the tenant. Windows are single glazed.
16. White goods, furniture, carpets and curtains are provided by the tenant.
17. No service charges or charges for utilities are included in the rent.

## **Submissions – Tenant (summarised)**

18. The tenant opened her submissions with a recap of the most recent history in regard to rental increments. The Tribunal last determined the rent in April 2019 at £640.00, payable from 1 March 2019. With effect from July 2021, the landlord increased the rent to £657.92 which the tenant accepted. However, the tenant explained that she considered the rent hereby proposed, representing an increase just shy of 56%, to be unacceptable. That said, the tenant acknowledged that rental values do

increase and, in recognition, she counter proposed a new rent of £677.86 which equated to “a more realistic increase” of 3%.

19. In support of her proposed rent the tenant provided a basket of seven comparable properties, the asking rents for which ranged from £795.00 - £900.00 per month. Averaging the seven prices, the tenant arrived at a rental figure of £862.86 per month “for a 2 bed property in the local area...”. The tenant referenced a further sixteen two-bedroom terrace properties that she had identified however no details of these were provided within her submissions and the Tribunal therefore attribute no weight to them.
20. The tenant listed improvements effected by herself and which were excluded from previous rental determinations. Amongst others, the list included the provision of electric storage heaters; creation of off-road parking for two cars; dated fittings; and general repairs and enhancements.
21. Since the Tribunal’s last inspection in 2019, the tenant advised that further works of repair, maintenance and improvement have been undertaken at her expense, summarised as:
  - Complete external redecoration
  - Replacement of all storage heaters
  - Replacement of ground floor toilet
  - Replacement of one bedroom carpet
  - Replacement of vinyl flooring to ground floor cloakroom
  - Installation of roadside kerbs
  - Replacement of door threshold
22. The Tribunal’s attention was drawn to a Housing Health and Safety Rating System report (“HHSRS”) dated 24 February 2022, which had been prepared by a Private Sector Housing Officer of Tunbridge Wells Borough Council pursuant to the Housing Act 2004 within which various hazards at the property were identified. One such hazard, ‘excess cold’ was found to be a Category 1 hazard, that being the most severe. Six category 2 hazards were identified, including amongst others ‘damp and mould growth’, ‘asbestos’, ‘electrical hazards’, and ‘fire safety’.
23. The tenant provided a list of repairs that she stated remain outstanding which included various roof leaks; roof damage; window disrepair; a malfunctioning bathroom windows and rising damp.
24. Taking account of the above the tenant proposed a deduction of £185.00 per month from the full market rent to arrive at her proposed rent of £677.86 per month. Such adjustment representing a deduction of approximately 21%.

### **Submissions – Landlord (summarised)**

25. The landlord described the property as a three-storey end-terraced house with two bedrooms and an attic room used as a bedroom.

26. The landlord rejected all seven of the tenant's comparables on the grounds that none are local to the subject property, many are considerably smaller and some are situated in urban, as opposed to a semi-rural, location.
27. By contrast, the landlord relied on five comparable lettings, each being a two or three bedroom house within a five mile radius of the subject and advertised between July and November 2022. Asking prices ranged from £1,250 - £1,650 per month, with four of the five advertised at price between £1,250 - £1,295 per month.
28. In accord with their evidence the landlord proposed a starting open market rent, in good condition, of £1,250 per month. Deducting £225.00 in recognition of the issues already identified by the tenant, the landlord arrived at their proposed rent of £1,025 per month. Such adjustment representing a deduction of 18%.
29. In regard to some of the items of repair or replacement identified by the tenant, the landlord questioned as to why the tenant carried out such works at her own expense when she had no obligation to do so under her tenancy agreement.

### **Determination**

30. The Tribunal determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality in particular. It does not take into account the present rent and the period of time which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the passing rent. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the landlord or the tenant.
31. The Tribunal assesses the rent for the property as at the date of the landlord's Notice and on the terms of the extant tenancy. The Tribunal disregards any improvements made by the tenant, but takes into account the impact on rental value of disrepair which is not due to a failure of the tenant to comply with the terms of the tenancy.
32. In determining the rent, the Tribunal has regard to any evidence supplied by the parties and the Tribunal's own general knowledge of market rental levels in the wider area.
33. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have an Energy Performance Certificate (EPC) Rating of F, and a recorded floor area of 120m<sup>2</sup>. Such rating is lower than that required to let a property unless an exemption has been registered. The Tribunal undertook no investigation in this regard however the poor rating was taken into account.
34. The Tribunal considered all of the comparable evidence submitted by the parties and concluded that it favours that advanced by the landlord, primarily as each landlord comparable was located within a five mile

radius of the subject, was of a similar size or adjusted accordingly, and was advertised close to the pertinent date. The Tribunal took account of the superior condition and layout of these comparables.

35. The Tribunal attributed less weight to the tenant's comparables as none were local to the subject, some being located in excess of twenty miles distance. Further, the Tribunal concluded that the tenant's comparables differed considerably from the subject in age, style and size.
36. In determining the market rent, the Tribunal has regard to whether the property meets the standard of accommodation, repair and amenity of a typical modern letting. In this instance the Tribunal determined that the subject property fell short of the standard required by the market.
37. The property has no central heating, instead relying on electric storage heaters provided by the tenant. Heat retention within the property is further hampered by single glazed windows. It is the Tribunal's experience that the rental market favours properties with central heating and double glazing, and will downwardly adjust values accordingly where these are absent, although the Tribunal acknowledges the practical differences in providing double glazing when a property has listed status.
38. The Tribunal does not intend on addressing each of the alleged disrepair or tenant's improvements in detail for two reasons. Firstly, the independent third party evidence contained within the HHSRS is compelling and was undisputed by the landlord. Secondly, the landlord proposed a deduction within their rental assessment of £225 pm in recognition of these issues, such sum being in excess of the deduction proposed by the tenant of £185 pm. The Tribunal is therefore satisfied that the parties are generally in agreement as to the condition and level of disrepair of the property.
39. The landlord does not dispute the tenant's improvements. However, the Tribunal concurs with the landlord that some of the repairs undertaken by the tenant are likely to have been the responsibility of the landlord and, accordingly, where the tenant chose to carry out such work at their own expense the landlord should not now be penalised within this assessment.
40. Based on the knowledge of its members, the Tribunal finds that the market for this type of property is sensitive to condition and inventory, and will be priced accordingly.
41. The landlord does not dispute that the carpets, curtains and white goods are provided by the tenant.
42. The Tribunal, acting as an expert Tribunal and having regard to the evidence submitted, determines the rent which the property could be expected to achieve on the open market if it were in a condition and state of modernisation considered usual for such a letting would be £1,150.00 per calendar month.
43. However, the subject property is not in a condition considered typical of a modern letting at a market rent. The property lacks some general

maintenance and repair, fittings are dated, the accommodation layout is awkward, there is no central heating or double glazing, and the white goods, carpets and curtains are provided by the tenant. Improvements, including the creation of parking spaces, are attributed to the tenant. Finally, the tenant has an internal decorating liability that is considered more onerous than that included in modern tenancy agreements. Accordingly, and in reflection of such differences, the Tribunal makes a deduction of 20% from the hypothetical open market rent.

44. Deducting a total of 20%, the Tribunal arrived at, and hereby determines, an adjusted Market Rent of £920.00 per calendar month.

### **Effective date**

45. The revised rent would normally be payable from the date specified in the landlord's notice, that being 1 October 2022. However, by virtue of section 14(7) of the Act the Tribunal has discretion in the case of causing undue hardship to amend the commencement date to the date of determination.
46. In this application the tenant made no submissions to the Tribunal in regard to delaying the effective date of the revised rent on grounds of hardship. Accordingly, there is no reason for the Tribunal to depart from the commencement date stipulated within the landlord's notice. The rent of £920.00 per month will therefore take effect from 1 October 2022.

### **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 by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
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.