



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

Case reference : **CHI/21UC/MNR/2022/0115**

Property : **52 Falmouth Close, Eastbourne,
East Sussex, BN23 5RW**

Applicant Tenant : **Ms E Langevin**

Respondent Landlord : **Miss S Wickens**

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**

DECISION

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Decision of the Tribunal

On 8 December 2022, the Tribunal determined a Market Rent of £975.00 per calendar month to take effect from 3 October 2022.

Background

1. By way of an application received by the Tribunal on 28 September 2022, the Applicant tenant of 52 Falmouth Close, Eastbourne, East Sussex, BN23 5RW (“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 2 September 2022, proposed a new rent of £975.00 per calendar month, in lieu of the passing rent of £850.00 per calendar month, to take effect from 3 October 2022.
3. The tenant occupies the property under an Assured Shorthold tenancy which commenced 3 June 2019. A copy of the tenancy agreement was provided.
4. On 25 October 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 8 November 2022 and 22 November 2022 respectively, with copies also to be sent to the other party. The Tribunal received submissions from the landlord only. This determination is therefore based on the contents of the Applicant tenant’s application form, the landlord’s submissions and the Tribunal’s expertise.
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. These reasons address in summary form the key issues raised by the parties. They do not recite each and every point identified. The Tribunal concentrates on those issues which, in its view, go to the heart of the application.

Law

8. 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.

9. 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

10. The property is a second floor flat situated in a three-storey, modern, purpose built block of similar residential properties within the Sovereign Harbour South location of Eastbourne. The building is constructed with brick and rendered elevations beneath a pitched roof clad in tiles.
11. The property is located close to the Waterfront Marina, providing shops and eateries, and is a short distance from Eastbourne seafront.
12. Accommodation is laid out on the top floor of the building, accessed via stairs but with no lift, and comprises a reception room, kitchen, 2 bedrooms and a bathroom. The property is let furnished and has the benefit of an allocated parking space.
13. The property is heated by electric storage heaters and windows are double glazed.
14. White goods, furniture, carpets and curtains are provided by the landlord.
15. No service charges or charges for utilities are included in the rent.

Submissions – Tenant (summarised)

16. With the exception of the application form, the Tribunal received no submissions from the tenant.

Submissions – Landlord (summarised)

17. The landlord described the property as in a good condition and although the exact age of the kitchen and bathroom fittings was unknown, the landlord stated they were modern, as evidenced by an inventory dated 3 June 2019; copy provided.
18. The inventory showed the property, as at the commencement of the tenancy, to be well presented throughout. The bathroom fittings appear modern, whilst the kitchen is well-fitted kitchen and includes white goods. Floor coverings and curtains appear to be in a good condition and of reasonable quality.
19. In support of her proposed rent of £975.00 per month the landlord submitted a 'Rightmove Best Price Guide' which listed similar properties within a quarter mile radius of the property advertised for letting between July and October 2022. The report included three such lettings, albeit two entries appear to be the same property.

20. The first (and second) comparable was a similar two bedroom top floor flat within a three-storey block in Falmouth Close. The property is described as newly refurbished and advertised for let on an unfurnished basis initially at £1,000 per month and later, once refurbished, at £1,100 per month, whereupon the report noted the property as 'let agreed'.
21. The final comparable was a similar two bedroom flat situated in a modern residential block within the South Harbour development, however this flat is located on the ground floor of the building. The property was advertised for 59 days at an asking price of £995 per month, prior to an agreed let.

Determination

22. 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.
23. 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.
24. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have an Energy Performance Certificate (EPC) Rating of C, and a recorded floor area of 51m².
25. The Tribunal considered the evidence provided by the landlord and, in the absence of any contradictory evidence from the tenant, the Tribunal tested the landlord's evidence against its own knowledge and experience as an expert Tribunal. In doing so, the Tribunal was satisfied that a rental price of £975.00 per month was achievable as at the pertinent date.
26. 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 the absence of any challenge from the tenant the Tribunal accept the inventory provided as indicative of the standard of accommodation and quality of fittings, albeit after three years a degree of wear and tear is to be anticipated. Accordingly, the Tribunal has no hesitation in determining that the subject property meets the required market standard.
27. The tenant did not dispute that the carpets, curtains and white goods are provided by the landlord, as evidenced by the inventory report. No deduction from the market rent was therefore required in this regard.

28. Accordingly, the Tribunal determines the rent which the property could be expected to achieve on the open market would be £975.00 per month.

Effective date

29. The revised rent would normally be payable from the date specified in the landlord's notice, that being 3 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.
30. 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 £975.00 per month will therefore take effect from 3 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 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.