



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

**Case Reference** : **CHI/18UH/MNR/2023/0007**

**Property** : **3 Ashley Way, Dawlish, Devon, EX 7 0HA**

**Applicant** : **Mr E and Mrs C Hole (Tenants)**

**Respondent** : **Mr W and Mrs J Thomas (Landlords)**

**Date of Application** : **Received 4<sup>th</sup> January 2023**

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

**Tribunal** : **Mr R T Brown FRICS Chairman  
Ms C Barton MRICS  
Mr M Woodrow MRICS**

**Date** : **13<sup>th</sup> March 2023**

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**REASONS FOR DECISION**

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### ***Background***

1. The Tribunal gave formal notice of its decision by a Notice dated 13<sup>th</sup> March 2023 that the rent will be **£945.00 per calendar month (pcm)** with effect from 15<sup>th</sup> January 2023.
2. By an application received by the Tribunal on the 4<sup>th</sup> January 2023, the Tenants 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 10<sup>th</sup> December 2022 proposed a rent of **£1,050.00 pcm** with effect from 15<sup>th</sup> January 2023, in place of the current rent of £780.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and is dated 15<sup>th</sup> February 2014. 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 23<sup>rd</sup> January 2023 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 a cul de sac within a residential area of Dawlish. Local amenities are available.
8. The property comprises a semi detached bungalow of brick and block construction under a tiled roof. The property is centrally heated and double glazed.
9. The accommodation comprises: Living Room, kitchen, bathroom/wc and 2 double bedrooms. Outside: Garden and off street parking on driveway.
10. The property is let unfurnished with no white goods.
11. The Tribunal assumed that all mains services are connected.

### ***Documents supplied to and considered by the Tribunal***

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

### ***Landlord's Representations (summarised):***

15. The Landlord says in the Reply Form and attachments:

- a) At first letting the property was in show home condition but has been allowed to deteriorate due the tenants occupation.
- b) Photographs of the property at time of letting (2014) are attached to the Reply Form.
- c) Between 2016 and 2022 repairs were carried out: Roof, new consumer unit (electrics), w.c., energy efficient boiler, bath and kitchen taps, door strip, shower unit, fencing at front of property.
- d) Copy invoices are included.
- e) Also included is email correspondence with the Tenants regarding repairs.
- f) There are good transport links (rail and bus) to Exeter and the rest of the country.
- g) The town centre is 10 minutes' walk as are the local primary and secondary schools. The beach is 5 minutes walk.

16. As to rental value the Landlord says only one semi detached bungalow is currently available at £1,150.00 pcm but it has only 1 parking space. Details of other properties within the wider South Devon area are provided at rents ranging from £825.00 to £1,400.00 pcm. *(Tribunal's Note: The reproduction was poor, making it difficult for the Tribunal to consider this evidence in detail. Further it was not analysed by the Respondent).*

17. In her submission the Landlord explains the history of the tenancy and her experience as an accredited Landlord.

### **Tenant's Representations (summarised)**

18. The Tenant says in their Application and Reply Form:

- a) Tenant's repair and improvements: Replace 'lean to' carport roof, secured fences, annual decorating, clearing gutters, repair kitchen units and edging to bath.
- b) In their submission the Applicants say that the property was in poor condition when they took on the Tenancy and in evidence produce a letter they wrote to the agent at the time.
- c) A large number of photographs dated 25<sup>th</sup> January 2014 are included.
- d) A copy of the inventory (including photographs) at the time of letting is also included.
- e) Further photographs are included showing the condition of the property at various times during the tenancy together with photographs of repairs undertaken by the Tenants.
- f) Further correspondence between the parties (and the Landlord's agent) regarding the history relating to the property and previous rent reviews is included.

19. As to the proposed rent the Tenants provide two comparables:

- a) 3 bedroom semi detached house in Chudleigh, same council tax band, asking £1,100.00 pcm.
- b) 2 bedroom semi detached bungalow in Kingsteington fully modernised: Let agreed at £895.00 pcm.

### **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. For the benefit of the parties Tribunal explains that when considering the submissions from the parties, it considers only those matters (in so far as such matters can be identified from the papers provided) which directly affect the rental value in the market today, ignoring matters such as a tenant's failure to meet its obligations under the agreement.
22. The Tribunal checked the National Energy Performance Register and noted that the subject property has an expired certificate (dated 12<sup>th</sup> February 2022) registering the property at D. 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, 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 central heating, modern bathroom and kitchen facilities, floor coverings, full suite of white goods and an EPC Rating of E or above would be **£975.00 pcm.**
25. The Tribunal, after careful consideration of the current market conditions and the apparent condition (as submitted by the parties) of the subject property determined to make deductions in respect of issues identified:
  - a) Lack of white goods: £30.00
26. Accordingly, the Tribunal determined that the market rent for the subject property is **£945.00 pcm.**
27. The rent will take effect from 15<sup>th</sup> January 2023 being the date specified by the landlord in the notice of increase.

### ***Relevant Law***

28. Sections 13 and 14 of the Housing Act 1988.
29. 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](mailto: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.