



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

Case Reference : **CHI/19UC/MNR/2023/0056**

Property : **Flat 21
Hornby II
12 Arthur Road
Christchurch
Dorset
BH23 1PU**

Applicant Tenant : **Mr G Maslen and Mr G Short**

Representative : **None**

Respondent Landlord : **Mr B Vaughan, Mrs C Vaughan, Mr R
Bedford and Ms L Brouard**

Representative : **Hunters Estate & Lettings Agents**

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

Tribunal Members : **Mr I R Perry FRICS
Mr S J Hodges FRICS
Mr P E Smith FRICS**

Date of Inspection : **None. Paper determination**

Date of Decision : **25th April 2023**

DECISION

Summary of Decision

1. On 25th April 2023 the Tribunal determined a market rent of £880 per month to take effect from 14th April 2023.

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 Tenants pursuant to sections 13 and 14 Housing Act 1988.
3. On 8th March 2023 the Landlords served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £900 per month in place of the existing rent of £810 per month to take effect from 14th April 2023. The notice complied with the legal requirements.
4. On 16th March 2023 the Tribunal received an application from the Tenants under Section 13(4) (a) of the Housing Act 1988.
5. The Tribunal does not consider it necessary and proportionate in cases of this nature to undertake inspections or hold Tribunal hearings unless either specifically requested by the parties or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal issued directions on 5th April 2023 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.
7. Both parties submitted papers by the specified date. The papers were also copied to the other party.
8. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 25th April 2023 based on the written representations received.

The Property

9. From the information given in the papers and available on the internet the property comprises a 2nd floor flat within a purpose built 3-storey block within a residential area of Christchurch, close to the town centre and less than 2 miles from Southbourne beach.
10. The accommodation includes a Living room, Kitchen, 2 Bedrooms and a Bathroom. Outside there are communal grounds and parking.
11. The property has gas-fired central heating and double-glazed windows.

Submissions and Evidence

12. The initial tenancy began on 14th August 2016. Carpets, curtains and a cooker are provided by the Landlords but there is no fridge or washing machine.
13. The Landlords' Agent states that carpets were renewed in circa 2021, that new fronts to kitchen cupboards were fitted in 2022/2023 and that the Tenants redecorated the flat in 2021 with paint supplied by the Landlords. They also state that the kitchen and bathroom fittings are circa 10 years old.
14. The Agent supplied the Tribunal with details of 2-bedroom flats to let in the area with asking rentals of £1,000 to £1,200 per month.
15. The Tenants submitted photographs of the accommodation. They submit that there are issues with the management and maintenance of the common areas within the block and with the car park and grounds.
16. The Tenants also refer to the ingress of water around windows, some damaged plasterwork, black mould growth, and refer to long standing repair issues which have now been remedied. In addition, they refer to noise from nearby railway line and major road.
17. In their submission the Tenants provide an analysis of capital value, floor area and rents achieved. They also provide details of rents passing within the same block between £775 per month and £875 per month but no dates of the agreements for these rents was provided.
18. The Tenants state that they had offered to agree an increase in rent to £880 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 and Valuation

19. 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 papers it decided that it could do so.
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 parties are not relevant to this issue.

21. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Christchurch the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £950 per month.
22. However, the Tribunal decided that this figure needs to be adjusted to take account of the Tenants provision of fridge and washing machine, with a further adjustment to reflect the present condition and general repair.
23. The Tribunal decided to adjust the rent by £20 per month in respect of white goods and £50 per month in respect of general repair, a total adjustment of £70 per month.
24. The Tenants made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenants undue hardship.

Determination

25. 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 £880 per month.
26. The Tribunal directed that the new rent of £880 per month should take effect from 14th April 2023, 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 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.