



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

Case reference : CHI/00HE/MNR/2023/0016

Property : 7 Pengover Green, Pengover, Liskeard,
Cornwall, PL14 3NH

Applicant Tenant : Mrs L Allerton

Representative : None

Respondent Landlord : Mr F Martin & Mrs A Melhuish

Representative : Jefferys Limited

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

Tribunal member(s) : Mrs J Coupe FRICS
Mrs A Clist MRICS
Mr M Woodrow MRICS

Date of decision : 15 May 2023

REASONS

Decision of the Tribunal

On 15 May 2023 the Tribunal determined a Market Rent of £420.00 per month to take effect from 1 February 2023.

Background

1. By way of an application received by the Tribunal on 25 January 2023, the Applicant tenant of 7 Pengover Green, Pengover, Liskeard, Cornwall, PL14 3NH (“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. Unusually, the Applicant’s application was submitted by the Respondent’s representative. On 1 February 2023, the Tribunal case officer received email confirmation from the Applicant of the Respondent’s authority to submit the application on her behalf.
3. On 22 February 2023, the Tribunal advised the parties that it was minded to strike out the application under Rule 9 of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013 on the ground that the Tribunal did not have jurisdiction in relation to the proceedings due to an invalid s.13 Notice.
4. Further to representations from the parties, the Tribunal, on 10 March 2023, advised the parties that it was now satisfied as to the validity of the Notice and, that accordingly the Tribunal was no longer minded to strike out the Notice.
5. The Notice, dated 2 December 2022, proposed a new rent of £425.00 per month, in lieu of the passing rent of £300.00 per month, to take effect from 1 February 2023.
6. The tenant occupies the property under a periodic tenancy which commenced on 1 July 2016. A copy of a tenancy agreement was not provided.
7. On 17 March 2023, 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 objections were received.
8. The Directions required the landlord and tenant to submit their completed statements to the Tribunal by 31 March 2023 and 14 April 2023 respectively, with copies to be sent to the other party. The tenant complied with the directions. The landlord’s submissions were received by the Tribunal on 6 April 2023, that being six days late, with no explanation.
9. On 13 April 2023, the Respondent’s representative filed a case management application (“CMA”) seeking permission to submit late representations. The Applicant objected to the CMA but provided no

grounds in support of her objection. Having identified no prejudice to the Applicant in accepting the late submissions, the Tribunal approved the CMA on the 20 April 2023.

10. Having reviewed the application, the Tribunal concluded that the matter was capable of being determined fairly, justly and efficiently on the papers, consistent with the overriding objective of the Tribunal.
11. These reasons address in **summary form** the key issues raised by the parties. They do not recite each and every point referred to in submissions. The Tribunal concentrates on those issues which, in its view, go to the heart of the application.

Law

12. 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.
13. 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

14. In accord with current Tribunal policy, the Tribunal did not inspect the property, instead relying on the parties' submissions and viewing the property via online portals.
15. The property is situated in Pengover, a hamlet located approximately one mile from the market town of Liskeard. Facilities within the immediate rural locality are sparse however Liskeard offers the standard range of shops and conveniences, including a railway station.
16. The property is a mid-terraced cottage built in or around 1870, with a single storey extension to the front which is believed to have been built during the 1960's. From photographs provided, the main property appears to be constructed of solid masonry walls beneath a pitched and slate covered roof.
17. The accommodation comprises, at ground level, an entrance hall; reception room/kitchen and a bathroom and, on the first floor, two bedrooms.
18. The property has the benefit of a garden and storage shed but no off-street parking.
19. The property is heated by electric heaters and a woodburner, both provided by the landlord. Full double glazing is also provided by the landlord.

20. Some of the floor coverings are provided by the landlord. Curtains are provided by the tenant.
21. No service charges or charges for utilities are included in the rent.

Submissions – Tenant (summarised)

22. The Applicant tenant describes the property as a small house with a floor area of 47m². The reception room presents as a combined living room/dining area/kitchen. The overall condition of the property is considered poor. Photographs of the accommodation and condition were submitted.
23. The kitchen area includes a sink with a cupboard underneath, an additional cupboard and a small area of worktop. Space is provided for a washing machine and a free-standing cooker. The cooker, which was provided when the tenant took up occupation, is now only partially operational however the landlord denies repairing or replacement liability. Further white goods are supplied by the tenant.
24. The bathroom, which is located in a single storey extension built of single skin beneath a flat roof, is not considered fit for purpose. The bathroom is damp and cold resulting in surface mould and a slug infestation. The enamel of the bath has worn away and the shower hose is close to breaking. Temperatures as low as 0 to -5 degree Celsius have been recorded.
25. The inner door between the bathroom and living room is ill-fitting and draughty.
26. Damaged floor coverings pose a trip hazard.
27. Seals to the double glazed window in the second bedroom have failed; the window is also ill-fitting.
28. The tenancy includes a garden shed which is in poor condition and considered unusable. Access to the shed is blocked by rubbish which, in spring 2022, the landlord had agreed to remove. Without access to the store, and the store being in a poor condition, the tenant has nowhere to hold fuel for the woodburner.
29. The tenant refers to a grant for property repairs and improvement which was discussed with the landlord in 2020 but not pursued. Concerned about the condition of the property, the tenant approached Cornwall Council who, in March 2022, undertook an inspection. Following receipt of their report the landlord undertook a number of improvements however those defects noted above remain outstanding.
30. Improvements completed by the landlord, on various dates throughout the tenancy, include the installation of additional heating to the first floor and bathroom; replacement of the double glazed window unit in the main bedroom; carpeting of the staircase and repairs to stair treads; a

replacement entrance door; a replacement woodburner (installed earlier in the tenancy).

31. In support of her objection to the proposed rent, the tenant relies on a recently negotiated rent of 6 Pengover Green at £325.00 per month. She states that the comparable property is the same size as the subject property, although the condition is superior and the kitchen area greater.
32. The tenant argues that the landlords' comparable at 9 Pengover Green is inappropriate, perceiving the comparable to be significantly larger, in a superior condition and with the benefit of a separate kitchen and a first floor bathroom. The comparable also has the use of an outside storage shed which is in good condition.
33. Relying predominantly on the letting of 6 Pengover Green, the tenant argues that £325.00 per month is the maximum appropriate rental figure and that the Tribunal should have regard to the difficulties in getting defects rectified and those defects outstanding.

Submissions – Landlord (summarised)

34. The Respondent describes the property as being “*generally in good condition, although the door to the lounge/kitchen does not fit correctly.*”
35. The Respondent states that the bathroom is in a fair condition for its age, with the exception of the bath enamel which, during the last inspection, was noted to be de-grading.
36. The Respondent considers the kitchen to be in fair condition.
37. The following landlord's improvements were noted:
 - i. Installation of programmable and thermostatically controlled panel heaters to the first floor - January 2022
 - ii. First floor replacement double glazed windows – January 2022
 - iii. Staircase carpet – January 2022
 - iv. New Upvc entrance door – January 2022.
38. In support of the proposed rent, the Respondent refers to an agreed letting of 9 Pengover Green at £695.00 per month. The Respondent describes the comparable as slightly larger, with accommodation comprising an entrance porch and lounge with kitchen area at ground floor, and two bedrooms and a bathroom on the first floor. Carpets are provided by the landlord and the landlord is responsible for repairs.
39. The Respondent suggests that older-style two bedroom properties in the Liskeard area generally command rents in excess of £695 per month, whilst more modern properties achieve rents in the region of £800 or higher per month. No details were provided.

Determination

40. The Tribunal determines a market rent for a property by reference to rental values generally and, in particular, to the rental values for comparable properties in the immediate locality. The Tribunal has no regard to the prevailing 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 is unable to account for the personal circumstances of either the landlord or the tenant.
41. 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 has regard to 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.
42. In valuing the property as at the relevant date, the Tribunal disregarded the Applicant's assertion that the property qualified for a repair and improvement grant up to the value of £10,000. No evidence was submitted concerning the grant or as to the landlord's reasoning for not pursuing the matter.
43. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have an Energy Performance Certificate (EPC) Rating of D and a recorded floor area of 47m².
44. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today in the condition that is considered usual for such a market letting.
45. The Applicant provided one comparable, that being No. 6 Pengover Green, the tenant of which purportedly agreed a rental increase, with the same landlord, to £325.00 per month in January 2023. In the absence of a witness statement from said tenant, full details of the comparable property or confirmation of the agreed terms from the landlord, such evidence is considered hearsay and therefore of little assistance to the Tribunal.
46. The landlord relies on the letting of No.9 Pengover Green at £695.00 per month and, in submissions, noted the differences between the two properties. Letting details were provided.
47. The Tribunal considers the letting of 9 Penover Green useful in so far as it is a two bedroom cottage of similar age and construction within the locality. **However**, it was common ground between the parties, and the Tribunal concurs, that 9 Penover Green is a larger property with a first floor bathroom. The Tribunal also finds the condition of this comparable superior to that of the subject.
48. The Tribunal weighed the evidence submitted by the parties against its experience as a specialist expert Tribunal and its knowledge of rental values locally and, in doing so, determined the open market rental value to

be £525.00 per month.

49. Once the hypothetical rent, in good condition, was established, it was necessary for the Tribunal to determine 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.
50. The Tribunal was persuaded by the Applicant's submissions on general condition, in particular finding that the kitchen and bathroom are both dated and in need of modernisation. Furthermore, note was taken of surface mould, damaged floor coverings and, as agreed by the parties, an ill-fitting internal door.
51. The Tribunal finds that the kitchen area is exceptionally small and the facilities both basic and limited in number. The cooker was poorly located and restricts access to one of only two base cupboards. Furthermore, a lack of worktop space and adequate food preparation area was noted.
52. Access to the garden shed appears to be obstructed by rubbish, which, the tenant avers and the Respondent doesn't deny, is the responsibility of the landlord. Photographs also appear to show disrepair to the garden store.
53. Finally, it is undisputed that the tenant provides the white goods and curtains.
54. In reflection of the differences in condition, a lack of modernisation, and tenant's provision of white goods and curtains, the Tribunal makes a deduction of 20% from the hypothetical open market rent to arrive at, and hereby determine, an adjusted Market Rent of £420.00 per month.
55. The Tenant made no submissions to the Tribunal in regard to delaying the effective date of the revised rent on grounds of hardship. Accordingly, the determined rent of **£420.00 will take effect from 1 February 2023**, that being the date stipulated within landlord's 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 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.