



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

Case Reference : **CHI/43UH/MNR/2023/0115**

Property : **62 Swan Walk
Shepperton
Surrey
TW17 8LY**

Applicant Tenants : **Mr I Kokins & Mrs T Kokina**

Representative : **None**

Respondent Landlord : **Mr J Anderson**

Representative : **None**

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 S J Reichel MRICS**

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

Date of Decision : **6th June 2023**

DECISION

Summary of Decision

1. On 6th June 2023 the Tribunal determined a market rent of £1,390 per month to take effect from 9th 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 Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 3rd March 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1,700 per month in place of the existing rent of £1,250 per month to take effect from 9th April 2023. The notice complied with the legal requirements.
4. On 6th April 2023 the Tenants applied to the Tribunal 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 either party or a particular point arises which merits such an inspection and/ or hearing.
6. The Tribunal issued directions on 28th 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 dates setting out their respective cases. 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 6th June 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 an upper floor flat in a gated riverside development built in the 1990's by Crest Homes.
10. The property is about $\frac{3}{4}$ mile east of the centre of Shepperton. All main amenities are within a reasonable distance.
11. The accommodation includes a Hall, Living Room with Balcony, Kitchen, Bedroom One with ensuite Bathroom, second Bedroom and family Bathroom. Outside there are communal grounds and off-street parking.

Submissions

12. The initial tenancy began on 9th January 2016. The property has gas-fired central heating and double-glazed windows. There is no Energy Performance Certificate showing on the Government register.
13. The Landlord states that carpets, curtains and white goods are included, and the flat was refurbished in 2016 just before the present tenants took occupation. He quotes rents for a 1-bedroom flat in the same block with an asking rent of £1,250 and a nearby 3-bedroom flat available for £2,250. He also provides asking rents of £1,750, £1,800 and £1,700 for other properties in the area.
14. The Tenants state that an adjoining 2-bedroom flat has been let recently for £1,450 per month.
15. The Tenants say that the washing machine provided by the Landlord broke and they were forced to replace it at a cost of £380, receipt provided. The Tenants also say that the fridge, hob and extractor fan do not work properly.
16. The Tenants say that they had to replace the carpets which were of poor quality and damaged by water, that they have also changed the curtains, albeit to suit themselves. A receipt for carpets in the sum of £1,600 is provided.
17. The Tenants also refer to a dispute with the Landlord in respect of a broken control for the central heating system. The Tribunal was provided with copies of text messages between Mrs Kokina and the Landlord showing the Landlord's reluctance to repair or replace a control such that the heating was not working and the Tenants needed to purchase electric radiators at a cost of £418.98, receipts were supplied.

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

18. 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.
19. 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 Tenants are not relevant to this issue.

20. Having carefully considered the representations from the parties and associated correspondence including copies of text messages from the Landlord the Tribunal concluded that the Tenants were effectively being denied the use of the central heating system by the Landlord who has refused to repair or replace a control. None of the other statements made by the Tenants had been contradicted or countered by the Landlord.
21. Having regard to the comparables provided and using its own judgement and knowledge of rental values in Shepperton 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 £1,600 per month.
22. However the property is not let in a condition that would be normal to command such a rent and a number of adjustments need to be made.
23. Using its experience the Tribunal decided that the following adjustments should be made:

Lack of working central heating	£160
Defective white goods	£10
Tenants' replacement of damaged carpets	£30
Tenants' provision of washing machine	£10

TOTAL per month	£210

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 £1,390 per month.
26. The Tribunal directed that the new rent of £1,390 per month should take effect from 9th 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 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.