



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

Case Reference : **CHI/00HC/MNR/2023/0136**

Property : **Ground Floor Flat, 11 Nithsdale Road,
Weston-super-Mare, Somerset, BS23
4JP**

Applicant Tenant : **Malgorzata Ciolak**

Representative : **None**

Respondent Landlord : **William Morgan**

Representative : **None**

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

Tribunal Members : **Mr D Jagger MRICS
Mr M Woodrow MRICS
Mr J Reichel BSc MRICS**

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

Date of Decision : **15th July 2023**

DECISION

Summary of Decision

1. On the 15th July 2023 the Tribunal determined a market rent of £750 per month to take effect from 6th May 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 April 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £850 per month in place of the existing rent of £600 per month to take effect from 6th May 2023. The notice complied with the legal requirements.
4. On 28th April 2023 the Tenant appealed 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 are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal issued directions on 6th June 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. The tenant submitted papers, comparable evidence and photographs by the specified date setting out her case. The Tribunal received an email from the landlord dated 13th June 2023, together with an email from Haart's letting agents dated the 12th June which indicated they expected the property would let for in the region of £900 per month. 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 the 12th July 2023 based on the written representations received.

The Property

9. From the information given in the papers and available on Rightmove and Google maps, the property comprises a converted ground floor flat forming part of a two storey semi-detached building of solid stone masonry construction with stone faced elevations under a tiled roof, located in an established residential area. Local amenities are available.
10. The accommodation comprises: living room, kitchen, two bedrooms and a bathroom. There is a rear garden. The front garden has been paved to provide an off-street parking area. There is gas central heating and double-glazed windows. The landlord provided carpets and a cooker at the commencement of the tenancy.

Submissions

11. The tenancy began on 6th July 2022 for a term of 6 months.
12. The tenant completed the Rent Appeal Statement and provided a helpful schedule of photographs and stated that the landlord provided carpets and a cooker, otherwise there are no white goods.
13. The tenant provided a generic schedule of four comparables which ranged from £625 per month to £750 per month.
14. The Tenant states the property to be in need of refurbishment, the kitchen and bathroom fittings are dated, there is evidence of mould and some of the windows have misted over.
15. The Landlord did not complete the Reply Form but sent an email referring to a previous letting of the property, a copy of an emailed rental appraisal from Haart Letting Agents, a copy of the current tenancy agreement and a series of photographs which he says were taken about three years ago.
16. The Energy Performance Rating for the property expired on the 27th March 2023. The energy rating was D60 and it is confirmed there is gas central heating and double-glazed windows.

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

- 17. 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.
- 18. 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 are not relevant to this issue.
- 19. Having carefully considered the representations from the parties and associated correspondence, and using its own judgement and knowledge of rental values in the Weston-super-Mare area, 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 £850 per month.
- 20. However, the property is not let in such a condition as would command this full rent and the Tribunal needs to make some adjustment to this full rent to allow for the dated condition of the property.

21. The Tribunal has considered very carefully each parties submissions and using its own expertise, considers that a deduction of £100 should be applied for a lack of white goods (except the cooker), the tenants' provision of curtains, and the overall internal condition including dated kitchen fittings. This reduces the rental figure to £750 per month. It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the Tribunal's estimate of the amount by which the rent would need to be reduced to attract a tenant.
22. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

Determination

23. 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 £750 per month.
24. The Tribunal directed that the new rent of £750 per month should take effect from 6th May 2023, this being the date specified in the Notice.

D Jagger MRICS Valuer Chair 15th July 2023

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.