



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

Case Reference : **CHI/21UC/MNR/2023/0132**

Property : **4 Milton Grange
6 Arundel Road
Eastbourne
East Sussex
BN21 2EL**

Applicant Tenant : **Mr R Manning**

Representative : **None**

Respondent Landlord : **Ginger & Sanders Rentals Ltd**

Representative : **Mr J Sibley**

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

Tribunal Members : **Mr I R Perry FRICS
Mr N I Robinson FRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **7th August 2023**

DECISION

Summary of Decision

1. On 7th August 2023 the Tribunal determined a market rent of £740 per month to take effect from 7th August 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 30th March 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £875 per month in place of the existing rent of £575 per month to take effect from 1st May 2023. The Notice complied with the legal requirements.
4. On 27th April 2023 the Tenant 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 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 28th 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 Landlord made submitted papers by the specified dates setting out their. The papers were also copied to the Tenant.
8. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 7th August 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 converted Basement/Garden flat within a large Edwardian house, about 1.5 miles from Eastbourne beach.
10. There are shops supplying most day-to-day requirements within easy reach and a full range of amenities within Eastbourne.
11. The accommodation has gas-fired central heating and is described as including a Living Room, Kitchen, Bedroom and Bathroom. There is a large garden to the rear of the house but no off-street parking. The Energy Performance Rating is 'D', windows are single glazed and the floor area is said to be 109 square metres.

Submissions

12. The initial tenancy began on 30th August 1993. The Tenant states that he had exclusive use of the garden, but this is disputed by the Landlord who says that the garden is accessible to any other tenants in the building. No copy of any tenancy agreement was provided. The Tenant provides carpets, curtains and white goods and is responsible for internal decoration.
13. The Tenant says that he has carried out a number of improvements during his time at the property and provided the Tribunal receipts for various items, notably £700 for carpets to 3 rooms in 2002, £1,616 for kitchen cupboards in 1996 and £622.75 for extending the central heating system in 2002. The Tenant also provided a 'Minded to Notice' from Eastbourne Borough Council dated 14th January 2002 relating to the condition of the property.
14. The Tenant also provided photographs of the property showing a poor state of repair and photographs of clothing that had been spoilt by dampness/mould, and stresses that the property is poorly insulated.
15. The Landlord's Agent states that a new boiler was installed in 2017, that there is some minor damp damage in the Living Room and that there has been no upgrade to kitchen or bathroom fittings.
16. The rent was last increased in 2008. The Agent provides evidence of comparable properties let in the area between £850 per month and £995 per month. The Tenant provides evidence of properties available to rent between £725 per month and £795 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

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 parties are not relevant to this issue.

19. The Tribunal noted that there is a dispute over access to the garden, whether it is exclusive to this flat or is accessible to all flats in the building. The Tribunal assessed the rent on the basis that the Tenant has at least shared use of the garden. Having carefully considered the representations from the parties and associated correspondence, and using its own judgement and knowledge of rental values in Eastbourne, 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 £875 per month.
20. However, the property is not let in a similar condition or on similar terms to a normal open market letting. The Tribunal needs to reflect the Tenant's improvements carried out in the last 21 years and further deductions should be made from the open market rent to reflect the Tenant's provision of white goods, carpets and curtains and the dated fittings in the kitchen and bathroom.
21. Using its experience, the Tribunal decided that the following adjustments should be made:

Tenant's provision of white goods	£30
Tenant's provision of carpets	£30
Tenant's provision of curtains	£10
Tenant's responsibility for internal decoration	£25
Dated kitchen, bathroom and general repair	£40
	—————
TOTAL per month	£135

22. In his submission the Tenant asks the Tribunal to decide that the date the new rent should take effect is from a later date than specified in the Notice, that date being 1st May 2023, on the grounds of hardship. He explains that he has lost Housing Benefit and Council Tax support and that the energy costs for the flat are very high. The Landlord made no response to this request. In the circumstances the Tribunal decides that the new rent of £740 shall take effect from 7th August 2023, this being the date of its decision.

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 £740 per month.
24. The Tribunal directed that the new rent of £740 per month should take effect from 7th August 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 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.