



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

Case Reference : **CHI/45UC/MNR/2023/0148**

Property : **Flat 7, The Hawthorns
Linden Road
Bognor Regis
West Sussex
PO21 2AS**

Applicant Tenant : **Ms H Edwards and Mr J Roberts**

Representative : **None**

Respondent Landlord : **Miss S Lumbard**

Representative : **The Owen Kenny Partnership**

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 £925 per month to take effect from 6th June 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 May 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1,075 per month in place of the existing rent of £875 per month to take effect from 6th June 2023. The notice complied with the legal requirements.
4. On 22nd May 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 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 16th 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. Both parties submitted detailed papers by the specified dates very clearly 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 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 2nd floor flat in a modern purpose-built block of flats in a residential area within Bognor Regis. There are some shared outside spaces. All main amenities are available within the town.
10. The block is of brick and block construction beneath a flat roof. The accommodation is described as including a Living Room, Kitchen, 2 Bedrooms and a Bathroom. There is an open Car Port within the grounds.

Submissions

11. The Tenants first took occupation on 6th December 2013. Most recently they signed a new six-month tenancy agreement in November 2022 which has

expired and they are now in occupation on an Assured Periodic Tenancy. Carpets, curtains and white goods are all provided by the Landlord.

12. Heating is from some night store heaters and some electric heaters, windows are double glazed and the Energy Performance Rating is 'E'.
13. The Tenants have undertaken some painting internally after the windows were replaced and also undertake minor repairs inside the flat.
14. The Landlord states that a comparable flat in the same block was advertised recently to let for £1,150 per month and that there are numerous flats in Bognor advertised as available at rents in excess of £1,075 per month. She provides adverts in support of this.
15. The Tenants say that there are no heaters in the Bedrooms, that their front door is below standard in that it does not comply with fire regulations and is partly glazed which, with open stairs and access balconies, does not give them complete privacy. The Tenants also say that they experience problems with excessive condensation in the winter and one bedroom carpet is very worn.
16. The Tenants also provide photographs of the flat and details of a similar property in a similar area available at £950 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 to 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. Having carefully considered the representations from the parties and associated correspondence, and using its own judgement and knowledge of rental values in Bognor Regis, 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 £975 per month.
- 20. However, using its experience the Tribunal decided that this open market rent should be adjusted to reflect the lack of heating in Bedrooms, £30 per month,

and the poor EPC rating which will cause high energy bills to the Tenants, £20 per month.

21. The Tribunal did not consider that the starting date for the new rent specified in the Landlord's notice would cause the Tenants undue hardship.

Determination

22. 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 £925 per month.
23. The Tribunal directed that the new rent of £925 per month should take effect from 6th June 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.