



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

Case Reference : **CHI/29UE/MNR/2023/0162**

Property : **3 Aspen Drive
Whitfield
Dover
Kent
CT16 2EX**

Applicant Tenant : **Miss K Pyhyk**

Representative : **None**

Respondent Landlord : **Mr G Brown**

Representative : **Martin & Co**

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 M C Woodrow MRICS**

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

Date of Decision : **21st August 2023**

DECISION

Summary of Decision

1. On 21st August 2023 the Tribunal determined a market rent of £1,400 per month to take effect from 26th July 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 31st May 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1,400 per month in place of the existing rent of £1,300 per month to take effect from 26th July 2023. The notice complied with the legal requirements.
4. On 19th June 2023 the Tenant referred the matter 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 14th July 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's Agent submitted papers to the Tribunal which included a floorplan and photographs of the property, which had also been copied to the Tenant. The Tenant made no further submission.
8. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 21st 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 modern 3-storey terraced town house, built in 2005 which includes accommodation comprising 2 Living Rooms, 4 Bedrooms, Kitchen, Bathroom, ensuite Shower Room, Cloakroom, Garden, Garage and off-street parking.
10. The property is situated in a residential area on the north side of Dover. Shopping facilities are nearby and there is a full range of amenities in the town.
11. The property has gas-fired central heating and double-glazed windows. The Energy Performance Rating is 'C'. Carpets and white goods are provided by the Landlord.

Submissions

12. The initial tenancy began on 9th May 2009. The Tenant provided curtains.
13. The submission from the Landlord's Agent listed a number of repairs that had been carried out during the tenancy. The Agent also provided a list of three comparable properties to let in the general area with asking rents from £1,400 per month to £1,995 per month, two of these related to semi-detached houses and one was a Bungalow.

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

14. 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.
15. 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.
16. Having carefully considered the representations from the parties and associated correspondence, and using its own judgement and knowledge of rental values in Dover, 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 £1,400 per month. The Tribunal decided that the Tenant's provision of curtains was de minimus.
17. 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

18. 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 £1,400 per month.
19. The Tribunal directed that the new rent of £1,400 per month should take effect from 26th July 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.