



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

Case Reference : **CHI/00HN/MNR/2023/0165**

Property : **First Floor Flat
1 Deans Road
Bournemouth
Dorset
BN5 2DA**

Applicant Tenant : **Ms N Mendes**

Representative : **None**

Respondent Landlord : **Mr I McFarlane**

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 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 £840 per month to take effect from 22nd 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 11th May the Landlord's Agent served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £900 per month in place of the existing rent of £750 per month to take effect from 22nd June 2023. The notice complied with the legal requirements.
4. On 20th June 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 7th 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. 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 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 first floor flat in a converted 2-storey house within an old established residential area about 1/2 mile from Bournemouth beach.
10. The accommodation comprises a Living Room, Kitchen, 2 Bedrooms and a Bathroom with WC. There is no garden or off-street parking. Local shops, schools and public transport services are available in the area.
11. The property is built of brick elevations beneath a slate roof. The accommodation has central heating and double-glazed windows. The Energy Performance Rating is 'C'.

Submissions

12. The initial tenancy began on 22nd February 2016 at a rent of £750 which has not been increased since that date.
13. The Tenant states that carpets, curtains, a cooker and oven are provided by the Landlord and confirms that some repairs have been carried out by the Landlord.
14. The Tenant also states that there are damp issues within the flat, poor insulation, that the insulation between the ground and first floor flats is poor, that carpets are old and that the property is in a noisy area, especially at weekends.
15. The Tenant also provided the Tribunal with some market research of similar flats advertised to let for £850-£950 per month and considers that a rent of £900 per month could only be justified for a fully refurbished flat.
16. The Tenant also provided the Tribunal with a Hazard Awareness Notice issued by the Local Authority in February 2000 in respect of internal dampness and mould growth.
17. The Landlord considers that an increase in rent after 7 years occupation is justified and provided details of other flats available in a range £1,095-£1,200 per month. The Landlord also states that he accepts that the flat needs redecorating and recarpeting and that, together with external repointing and rendering, these are scheduled to be done later this years.

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 as at the date of its decision. The personal circumstances of the Tenant nor Landlord are not relevant to this issue.
- 20. Having carefully considered the representations from the parties and associated correspondence, and using its own judgement and knowledge of rental values in Bournemouth, 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 £1,000 per month.

21. However, the property is not let in such a condition as to command such a full market rent and a number of adjustments are deemed necessary.
22. The Tribunal decided that a deduction of £75 per month should be made to reflect damp/decoration issues, £50 per month to reflect worn carpets, £20 per month to reflect that not all white goods are provided and £15 per to reflect the Tenant's provision of curtains.
23. The full open market rent of £1,000 per month is therefore reduced by a total of £160 per month.
24. 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

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 £840 per month.
26. The Tribunal directed that the new rent of £840 per month should take effect from 22nd 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 rpcsouthern@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.