



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

Case reference : CHI/18UH/MNR/2023/0172

Property : Ford House, 37 Higher Brimley Road,
Teignmouth, Devon, TQ14 8JU

Applicant Tenant : Mrs K Woodhouse

Representative : Ms P Woodhouse

Respondent Landlord : Mr A & Mrs G Pengelly

Representative : Eden Lettings & Property Management

Type of application : Determination of a Market Rent
Sections 13 & 14 Housing Act 1988

Tribunal member(s) : Mrs J Coupe FRICS
Mr N Robinson FRICS
Mr S Hodges FRICS

Date of decision : 21 September 2023

REASONS

Decision of the Tribunal

On 21 September 2023 the Tribunal determined a Market Rent of £1,350.00 per month to take effect from 13 July 2023.

Background

1. By way of an application received by the Tribunal on 7 July 2023 the Applicant tenant of Ford House, 37 Higher Brimley Road, Teignmouth, Devon, TQ14 8JU (“the property”) referred a Notice of Increase in Rent (“the Notice”) by the Respondent landlord of the property under Section 13 of the Housing Act 1988 (“the Act”) to the Tribunal.
2. The Notice, dated 30 May 2023, proposed a new rent of £1,500.00 per month in lieu of a passing rent of £1,100.00 per month, to take effect from 13 July 2023.
3. The tenant occupies the property by way of an Assured Tenancy which commenced in May 1996. The exact date of occupation in May 1996 was unproven by either party and therefore, in the absence of a copy of the tenancy agreement, the rent date commonly agreed as the 13th of the month was adopted for the purpose of this determination.
4. On 9 August 2023 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No objections were received.
5. In accordance with the Directions both parties submitted representations and it is upon those representations that the Tribunal makes its determination.
6. Having reviewed both the application and parties’ submissions, the Tribunal concluded that the matter was capable of being determined fairly, justly and efficiently on the papers, consistent with the overriding objective of the Tribunal.
7. These reasons address in **summary form** the key issues raised by the parties. They do not recite each and every point referred to in submissions. The Tribunal concentrates on those issues which, in its view, are fundamental to the determination.

Law

8. In accordance with the terms of Section 14 of the Act, the Tribunal is required to determine the rent at which it considers the subject property might reasonably be expected to let on the open market, by a willing landlord, under an assured tenancy, on the same terms as the actual tenancy.

9. In so doing, and in accordance with the Act, the Tribunal ignores any increase in value attributable to tenants' improvements and any decrease in value due to the tenants' failure to comply with any terms of the tenancy.

The Property

10. In accord with current Tribunal policy, the Tribunal did not inspect the property but did view the exterior from publicly available online platforms.
11. Extracting information from the parties' submissions and with the benefit of its knowledge and experience as an expert Tribunal, the Tribunal arrived at the following conclusions and found as follows.
12. The property is a three-storey Edwardian semi-detached house believed to have been built around 1909. Online images appear to show the property to be of traditional masonry construction with a predominantly pitched roof clad in tiles.
13. The property is located within close proximity of local facilities and public transport, and a short drive to Teignmouth seafront.
14. Accommodation comprises an entrance hall, reception room, living room, kitchen and dining area at ground level; four bedrooms and a bathroom with separate WC at first floor level, and a bedroom and bathroom on the second floor.
15. The Tribunal note that the landlord refers to the top floor comprising a king sized bedroom with ensuite and a further single bedroom whereas the tenant says there is only one bedroom and ensuite WC and sink. The Tribunal has considered the house as a five bedroom property and that a small sixth bedroom or box room on the top floor would not materially affect the value.
16. The property has a sizeable garden and off-road parking at the rear.
17. The property is heated by a gas-fired central heating system. Windows are partially double glazed. Carpets are provided by the landlord, although, in part, replacement carpets have been laid by the tenant. Curtains and white goods are provided by the tenant.
18. The property has an Energy Performance Certificate (EPC) Rating of E and a floor area of 199m², as recorded within the online National Energy Performance Register.

Submissions – Tenant (summarised)

19. The tenant states that the property is in want of repair throughout and submits a series of annotated photographs dated 16 August 2023.
20. In addition to supporting narrative, which include extensive submissions on upgrades to the electrical installations and light fittings completed at the tenant's expense and replacement of a boundary fence at a cost of £800.00, the tenant lists the points of disrepair/defects within her

statement under the following headings:

- i. Windows – poorly fitted; inferior workmanship
- ii. Heating – defective
- iii. Rear door – unsecured
- iv. Bathroom – dated fittings; leaking bath
- v. Ceilings/Leaking/Balconies – poor workmanship remedying previous disrepair; water ingress and ceiling damage; dangerous/unsafe balcony structures
- vi. Bedroom 2 – ceiling damage following water ingress
- vii. Bedroom 3 & bedroom 4 – ceiling damage
- viii. Top floor bedroom – water ingress/damage; plaster cracking
- ix. Top floor bathroom – plaster cracking; no hot water; leaking plumbing
- x. Front door – ill-fitting
- xi. Garden wall pillar – out of alignment and considered precarious
- xii. Kitchen – dated fittings; damaged units; water ingress
- xiii. Dining area – corroded radiator; dampness
- xiv. Lounge patio doors – sealed shut to prevent draughts
- xv. Landing – plaster cracking.

The above is a broad summary of the representations submitted by the tenant. The Tribunal reminds the reader of its comments at paragraph 7 above, in that these reasons form a summary of submissions and do not rehearse each point advanced.

21. The tenant does not dispute that, at various times, the landlord or their appointed representative or contractor have attempted to gain access to the property to undertake various works of repair. Furthermore, the tenant does not dispute that, on occasion, access has been denied.
22. The tenant's representative explains in written submissions that on the occasion access has been denied the reasons are two-fold. Firstly, the tenant is suffering extreme poor health and is incapable of either affording access or allowing others to do so on her behalf. It is not necessary in these reasons to publicly restate the tenant's medical history, suffice to say such statements are not disputed by the landlord.
23. The second reason for denying access is that the tenant has lost confidence in the landlord's appointed contractors to effect the remedial works proficiently or professionally.
24. In support of her challenge to the proposed rent the tenant relies upon a letting of No. 39 Higher Brimley Road, being the adjacent house, which was advertised as available to let in or around 2019 at an asking price of £1,200.00 per month. The property is said to be in an immaculate condition and affording four bedrooms and three bathrooms, and a two-car garage.
25. Further comparable evidence includes a basket of three and four bedroom properties, including detached, semi-detached and terraced house, and bungalows in or around the Teignmouth area and advertised online as available to let at asking prices ranging from £1,100 - £1,695 per month.

Submissions – Landlord (summarised)

26. The landlord describes the property as being located in a desirable tourist town, within walking distance to the town centre and situated in close proximity to public transport.
27. The landlord concurs that the property is in want of repair and identifies certain works that have been undertaken since 2012, the most recent of which include resurfacing the external area around the rear door in 2023; tree surgery work in 2022; rebuilding a boundary wall, pillar, steps in 2022, and the installation of a new boiler in 2018.
28. The landlord states that attempts to undertake further remedial works have been frustrated by the tenant refusing access on multiple occasions. The landlord lists the works which are proposed but states such works are, as yet, unscheduled due to a lack of consensus over access. The planned works include the installation of a new kitchen and bathroom, repair or replacement of windows, repairs to the front door and rewiring of the property as scheduled in 2021 but for which access was denied. Extracts of communication exchanges with the tenant's representative were provided by way of evidence of failed attempts at arranging access. As the tenant accepts that access has, on occasion, been denied, for reasons already explained, there is no merit in repeating said exchanges in these reasons.
29. In support of the proposed rent the landlord relies upon three comparable properties:
 - i. Daimonds Lane 4-bedroom semi-detached house £1,985pm
 - ii. French Street 2-bedroom terraced house £1,450pm
 - iii. Alexandra Terrace 4-bedroom terraced house £1,300pm

Determination

30. The Tribunal found as a matter of fact that the notice served by the landlord was a Notice under section 13 of the Act as prescribed by statute.
31. The Tribunal determines a market rent for a property by reference to rental values generally and, in particular, to the rental values for comparable properties in the immediate locality. The Tribunal has no regard to the current rent and the period of time which that rent has been charged, nor does the Tribunal take into account the percentage increase which the proposed rent represents to the passing rent.
32. The legislation makes it clear that the Tribunal is unable to account for the personal circumstances of either the landlord or the tenant in determining the rent.
33. The Tribunal assesses the rent for the property as at the date of the landlord's Notice, whilst ignoring any market increase or decrease since such date and on the terms of the extant tenancy. The Tribunal disregards any improvements made by the tenant but has regard to the impact on rental value of disrepair which is not due to a failure of the tenant to comply with the terms of the tenancy.

34. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today in the condition that is considered usual for such a market letting.
35. In doing so, the Tribunal considered the evidence relied upon by the parties and weighed such against its own knowledge and experience as an expert Tribunal.
36. Whilst the letting of an adjacent property would typically provide strong market evidence, the Tribunal was unable to draw any assistance from the letting of No. 39 Higher Brimley Road as, having been advertised in 2019, the comparable was deemed too historic. The property market has evolved considerably during the intervening four years and rental values have shown, for most part, significant growth.
37. The landlord referred to three comparable properties but chose not to include detailed information on any within their submissions. In reply, the tenant also referred to the landlord's comparables and stated that each was in a far superior condition than the subject.
38. The tenant's own basket of comparables included a broad range of houses, typically providing less accommodation than the subject, and varying in configuration between detached, semi-detached and terraced houses, and bungalows.
39. Having regard to all submissions and the Tribunal's expertise the Tribunal determined an open market rental of £1,800.00 per month.
40. Once the hypothetical rent in good condition was established, it was necessary for the Tribunal to determine whether the property meets the standard of accommodation, repair and amenity of a typical modern letting.
41. In this instance the Tribunal determined that the subject property falls short of the standard required by the market.
42. The Tribunal finds common ground between the parties that the property is in want of repair and refurbishment. Both parties refer to various deficiencies, with the landlord relying on rebutted attempts to gain access as an explanation as to why works have not been undertaken.
43. The useful photographs submitted by the tenant assisted the Tribunal in forming a view of the internal condition of the property, from which the Tribunal concluded that the accommodation was basic, dated and in need of refurbishment, in addition to the repairs referred to above.
44. In reflection of such differences the Tribunal made an initial deduction of 35% from the hypothetical rent.
45. However, the Tribunal finds that the landlord has made some attempt at effecting repairs, demonstrated by the remedial works to one of the entrance pillars and concreting of an area around the rear door but, that

through no fault of her own, the tenant has been unable to afford internal access over a sustained period.

46. Whilst the Tribunal does not find such action deliberate on the part of the tenant, the Tribunal must, nevertheless, take into account the undisputed attempts made by the landlord to gain internal access to effect repairs. Accordingly, the Tribunal reduces the deduction from the hypothetical rent to 25%, to arrive at an adjusted rent of £1,350.00 per month.
47. No submissions were made to the Tribunal in regard to delaying the effective date of the proposed rent on the grounds of hardship and the determined rent of **£1,350.00 per month will therefore take effect from 13 July 2023**, that being the date stipulated within the landlord's 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 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.