



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

Case reference : **CAM/33UG/MNR/2023/0105**

HMCTS code : **P:PAPERREMOTE**

Property : **3 Birch Close, Little Melton,
Norwich, NR9 3QX**

Applicant (Tenant) : **Mr and Mrs Grainger and Ms
Thacker**

Respondent (Landlord) : **Ms Dromgoole and Mr Hinton**

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

Tribunal members : **Mr P Roberts FRICS CEnv**

Date of Determination : **27 November 2023**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper determination described above as P:PAPERREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

Decision

The Tribunal determined a market rent of £1,800 per month effective from 30 August 2023.

Reasons

Background

1. The Landlord served a notice dated 15 July 2023 pursuant to section 13 (2) of the Housing Act 1988 to increase the passing rent from £1,350 per month to £1,800 per month with effect from 30 August 2023.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application on 2 August 2023 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988.
4. The Tribunal issued directions on 29 August 2023 inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.

The Property

5. The Tribunal inspected the Property on 30 October 2023.
6. The Property comprises a detached house dating from circa 1999 of brick and tile construction providing lounge, dining room, breakfast area, conservatory, kitchen and hall at ground floor level and five bedrooms with one ensuite and one family bathroom at first floor level.
7. There is a double garage with external car parking to the front and a garden to the rear.
8. There is a garden to the rear, a garage to the side and enclosed parking for two cars at the front.
9. The Property benefits from central heating, double glazing, carpets, and curtains.

The Tenancy

10. The Tenant took occupation pursuant to an Assured Shorthold Tenancy commencing 30 January 2017 for a term of 6 months.
11. The initial rent under this Tenancy was £1,350 per month to be paid on the last day of each month.

12. The Tenant is required:
- Clause (4)(4) - *“To keep the drains gutters and pipes of the Property clear and the chimneys swept and the garden neat”*
 - Clause (4)(5) - *“To keep in good and complete repair order and condition (damage by accidental fire only excepted) the interior of the Property and the painting papering and decorations thereof and the fixtures fittings and appliances therein (except installations and things which the Landlord is liable hereunder or by law to repair.”*
 - Clause (4)(8) - *“Not to make any alteration in or addition to the Property or do or suffer and act or thing to be done thereon whereby the fire insurance premium might be increased.”*
 - Clause (4)(13) - *“To only keep the 2 dogs at the Property which was agreed with your Landlord’s (sic)”*
 - Clause (4)(20) *“The accommodation to be kept in a clean and acceptable state at all times”*
13. The Landlord is required by Clause 7 to comply with section 11 of the Landlord and Tenancy Act 1985, further details of which are set out below.

The Law

14. Section 5 (3) of the Act provides that the periodic tenancy arising on expiry of the Assured Shorthold Tenancy is one:
- “(a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;*
- (b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;*
- (c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;*
- (d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and*
- (e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy”*
15. Section 14 of the 1988 Act provides that the Tribunal is required to determine the rent at which the Property might reasonably be expected

to let in the open market by a willing landlord under an assured tenancy:

- a. *“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 rent) are the same as those of the existing tenancy.”*
16. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:
- 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 (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
 - 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.”*
17. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.
18. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:
- a. *“to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
 - b. *to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and*
 - c. *to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”*
19. Section 14 (7) of the 1988 Act states:
- “Where a notice under section 13(2) above has been referred to the appropriate tribunal, then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the appropriate*

tribunal that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.”

Representations – The Tenant

20. The Tenant raised a number of issues concerning works undertaken at the property (replacement of flooring, slates at the front of the Property and rear fence installation) together with outstanding repair issues comprising a temperamental boiler and broken loft hatch.
21. No rental evidence was presented.

Representations – The Landlord

22. The Landlord responded to the Tenant’s points. In doing so, the Tribunal was advised that the boiler was repaired in 2022 and that the they were not aware of the loft hatch.
23. The Landlord helpfully provided details of various properties and asking rents together with historic letting and sales particulars relating to the Property.

Determination

24. The Tribunal advise the Tenant and Landlord to review the lease provisions highlighted at paragraph 12 above and the provisions of section 11 of the Landlord and Tenant Act 1985 (see paragraph 18) which set out each party’s repair obligations. In this context, the Tribunal has assumed that the Landlord and Tenant have both complied with their obligations set out therein and valued accordingly.
25. In determining the market rent, the Tribunal has had regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent and the period that has passed since that rent was agreed or determined is not relevant.
26. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have any regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent.
27. In addition, historic matters between the actual landlord and tenant are not relevant to the rent likely to be offered by a prospective tenant. The Tribunal can therefore only have regard to the Property as it actually exists on the relevant date of the proposed rent review having regard to the statutory assumptions. Historic repairs and issues have therefore been disregarded.

28. As set out above, section 14 of the 1988 Act requires the Tribunal to determine the rent at which the Property might reasonably be expected to let with effect from the date specified for commencement of the new rent as set out in the section 13(2) Notice.
29. In effect, the Property is assumed to have been vacated, fully redecorated and be available on the market for occupation by an incoming tenant.
30. Whilst historic rents carry little weight in assessing the current rent, the Tribunal is aware that the rent of £1,350 per month has not been reviewed since 30 January 2017 since when rents have increased significantly over the past six years and ten months. It is therefore the case the quantum of increase is greater than it might have been had the rent been reviewed more recently.
31. The Tribunal has taken the evidence submitted to it into account but also applied its own expertise and knowledge. In this regard, the Tribunal determines the market rental of the Property as at the effective date to be **£1,800 pcm**. The rent payable may not, therefore, exceed this figure.
32. **However, this does not prevent the Landlord from charging a lower figure.**

Name: Peter Roberts FRICS CEnv

Date: 27 November 2023

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e., give the date, the property, and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises

3 Birch Close, Little Melton,
Norwich, NR9 3QX

The Tribunal members were

Mr P Roberts FRICS CEnv

Landlord

Ms Dromgoole and Mr Hinton

Address

C/O Gibson Bailey Lettings, 32-34 Prince of Wales Road,
Norwich, NR11 1LG

Tenant

Mr and Mrs Grainger and Ms Thacker

1. The rent is: £ 1800 Per month (excluding water rates and council tax but including any amounts in paras 3)

2. The date the decision takes effect is: 30 August 2023

3. The amount included for services is

not applicable

Per

4. Date assured tenancy commenced

30 January 2017

5. Length of the term or rental period

6 months

6. Allocation of liability for repairs

Tenant liable for internal repairs subject to exclusions

8. Furniture provided by landlord or superior landlord

N/A

9. Description of premises

The Property comprises a detached house dating from circa 1999 of brick and tile construction providing lounge, dining room, breakfast area, conservatory, kitchen and hall at ground floor level and five bedrooms with one ensuite and one family bathroom at first floor level.

There is a double garage with external car parking to the front and a garden to the rear.

There is a garden to the rear, a garage to the side and enclosed parking for two cars at the front.

Chairman

P Roberts

Date of Decision

**27 November
2023**