



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

Case Reference : **CHI/29UE/MNR/2023/0230**

Property : **2nd Floor
Right Hand Flat
1 Victoria Park
Dover
Kent
CT16 1QR**

Applicant Tenant : **Miss M Ross**

Representative : **None**

Respondent Landlord : **S Turner-Dauncey**

Representative : **Tersons**

Type of Application : **Determination of a Market Rent sections
13 & 14 of the Housing Act 1988**

Tribunal Members : **Mr I R Perry FRICS
Ms C D Barton MRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **20th November 2023**

DECISION

Summary of Decision

1. On 20th November 2023 the Tribunal determined a market rent of £500 per month to take effect from 5th October 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 16th August 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £500 per month in place of the existing rent of £450 per month to take effect from 5th October 2023. The notice complied with the legal requirements.
4. On 25th September 2023 the Tribunal received an application from the Tenant under Section 13(4) (a) of the Housing Act 1988. The application was dated 4th September 2023 and was accompanied by a letter dated 20th September 2023.
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 18th October 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 20th November 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 5-storey converted building comprising 8 flats in total.
10. The property is situated on the eastern side of Dover. The building is a Listed Building Grade II with a brick faced front elevation under a pitched roof.
11. The accommodation comprises an Entrance Hall, Living Room, Kitchen, Bedroom and Bathroom. There is on-street permit parking. The Energy Performance Rating is 'D' which has been lodged under the different postcode CT16 1QS.

Submissions

12. The initial tenancy began on 5th April 2012 at a rent of £400 per month. The rent increased in August 2021 to £450 per month.
13. The Tenant provides a detailed list of works she has done to the property over the years, many of which are repairs rather than improvements.
14. The Tribunal particularly noted that the Tenant says that she has replaced a rusty sink and worn worktops and fitted some new kitchen cupboards. She has also replaced lino, replaced the full bathroom suite, replaced carpets in the two principal rooms and replaced the shower.
15. On 21st April 2021 the Landlord's contractor disconnected the electric heating. This was only replaced in October 2023 with a new 'Rointe' system of electric heaters. The Tenant also makes representations regarding dampness in the property which has been an ongoing problem and provided photographs of mould growth in several places within the flat.
16. The Housing Improvement Officer from the local authority was due to inspect the property on 5th October 2023. The Tribunal have no further details of this visit.
17. The Landlord states that carpets, curtains and white goods are all supplied by the Tenant and that there is a newly installed electric heating system, but no double glazing. Furthermore, there is no off-street parking.
18. The Landlord has recently had a drone survey completed and has erected scaffolding from which it has become clear that the roof is defective, and the windows are in poor condition. He states that repair works, and some refurbishment works are underway.
19. The Landlord considers that the average local market rent for a 1-bedroom flat is over £600 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 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

- 20. 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.

21. Whilst sympathetic to the fact that the Tenant was without heating for an extended period, the Tribunal must assess the rent for the property as at the date of its decision, reflecting the new electric heating.
22. 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.
23. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in the Dover area, 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 £625 per month.
24. However, the property is not in a condition to command such a rent and a number of adjustments are necessary to reflect the present condition of the property which is awaiting roof, window and downpipe repairs.
25. In addition, the Tribunal needs to reflect the Tenant's improvements detailed above. Further deductions should be made from the open market rent to reflect the Tenant's provision of white goods, carpets and curtains.
26. Using its experience, the Tribunal decided that the following adjustments should be made:

Tenant's provision of white goods	£30
Tenant's provision of carpets	£20
Tenant's provision of curtains	£10
General condition including damp/mould	£40
Tenant's improvements	£25
	—————
TOTAL	£125

27. 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

28. 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 £500 per month.
29. The Tribunal directed that the new rent of £500 per month should take effect from 5th October 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.