



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

Case reference : **LON/OOAF/MNR/2023/0015**

Property : **136 Sandway Road, St Mary Cray,
Orpingdon, BR53TB**

Landlord : **Clarion Housing Association Ltd**

Representative : **No attendance**

Tenant : **Anthony Banner**

Representative : **No attendance**

Type of application : **Determination of rent under s.14
Housing Act 1988**

Tribunal : **Judge Shepherd
Kevin Ridgeway MRICS**

Date of Directions : **6th December 2023**

DETERMINATION

The property

1. This property is a ground floor flat with two bedrooms, lounge, kitchen, bathroom and separate WC. The property was not inspected as the tenant

was away at the date of the hearing and access was not provided. However, there was available to the Tribunal a condition report prepared for the landlord with numerous photographs. These showed the property to be riddled with damp and mould. The surveyor's conclusion was that: "The remedial work can only be carried out without the resident in occupation." And "The estimated duration of the works is [90 days] following a lead in period of 4 weeks."

The law

2. Section 13 of the Housing Act 1988 sets out how rent should be increased by a landlord of an assured periodic tenant. For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice.
3. Section 14 deals with determination of rent by the Tribunal when there has been a reference. The Tribunal determine the rent at which, subject to qualifications they 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.
4. The qualifications are that the Tribunal will 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 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.

Determination

5. It is the view of the Tribunal that no rental increase could be justified for this property in light of its appalling condition. The Tribunal's decision is that the rent should be reduced to £60.06 per week with the amount for services of £10.06 included in the rent.

Judge Shepherd
6th December 2023

RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the

First-Tier Tribunal at the Regional office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. 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.
4. 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.