



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

Case Reference : **CHI/00HE/MNR/2023/0252**

Property : **97 Trenethick Parc
Helston
Cornwall
TR13 8LT**

Applicant Tenants : **Mr M Nicholls and Ms V Musgrave**

Representative : **None**

Respondent Landlord : **Ms F Fletcher**

Representative : **Lemon Street Lettings Limited**

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 S J Hodges FRICS**

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

Date of Decision : **28th December 2023**

DECISION

Summary of Decision

1. On 28th December 2023 the Tribunal determined a market rent of £1,090 per month to take effect from 25th 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 Tenants pursuant to sections 13 and 14 Housing Act 1988.
3. On 29th August 2023 the Landlord's Agent served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1,150 per month in place of the existing rent of £950 per month to take effect from 25th October 2023. The notice complied with the legal requirements.
4. On 23rd October 2023 the Applicants applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. The Tribunal does not routinely 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 29th November 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 in support of 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 28th December 2023 based on the written representations received.
9. These reasons address in summary form the key issues raised by the parties. They do not recite each and every point referred to either in submissions or during any hearing. The Tribunal concentrates on those issues which, in its opinion, are fundamental to the application.

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.

The Property

10. From the information given in the papers and available on the internet the property comprises an end-terrace house situated within a development of

similar properties on the northern side of Helston, about 1 mile from the town centre.

11. There are shopping facilities in the general area and both primary and secondary schools are within reasonable walking distance.
12. The accommodation is listed as including an Entrance Porch, Living Room, Kitchen/Diner, 3 Bedrooms and Bathroom with WC. Outside there are gardens to front and rear. There is no off-street parking.
13. The property has rendered elevations beneath a pitched tiled roof, double glazed windows and gas-fired central heating. The Energy Performance Certificate rating is 'C' and states that the floor area is 76 square metres.

Submissions

14. The initial tenancy began on 25th August 2022 at a rent of £950 per month. The letter from the Landlord's Agent states that the Landlord is seeking to increase the rent "due to recent mortgage interest rate increases".
15. The Landlord's Agent's submission states that carpets, curtains and a cooker are all provided by the Landlord and details improvements made to the property over recent years including a new kitchen in 2010, new boiler in 2015, new bathroom in 2015, new shower in 2023, new cooker and hob in 2022 and new flooring in 2021.
16. The Landlord's Agent also provides details of other properties advertised to rent within a 3-mile radius with asking rents between £624 per month and £1,650 per month but no evidence as to actual rents achieved. Photographs of the property taken prior to the existing tenancy were also provided.
17. The Tenants provided the Tribunal with a list of repair issues encountered since taking occupation and acknowledge that most were dealt with by the Landlord within a reasonable timescale but there are some outstanding issues including damp and water ingress around the front window and door, holes and loose boards to the landing floor and ongoing problems with damp and mould which require regular cleaning.
18. The Tenants provided examples of rents for 2 comparable properties, although these are let through a Housing Association.
19. The Tenants also state that an electrical report has been obtained by the Landlord on 2nd December 2023 but the outcome or need for repairs are not yet known.

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. 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 and the Tribunal makes it clear that an increase in mortgage payments made by a landlord do not in themselves justify an increase in rent.

22. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Helston and surrounding villages, including properties advertised to rent in the general 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 £1,150 per month.
23. For such an open market letting it is usual for a landlord to include floorings, curtains, fridge, washing machine and cooker. In this case only a cooker is provided so an adjustment to the rent is necessary to reflect this.
24. The Tribunal notes that many repair issues have been dealt with during the tenancy but that there are outstanding issues regarding damp and rain penetration to the front and repairs needed to the landing floor.
25. Using its experience the Tribunal decided that the following adjustments should be made:

Tenants' provision of some white goods	£20
General repairs outstanding	£40
	—————
TOTAL per month	£60

26. The Tenants made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenants undue hardship.

Determination

27. 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 £1,090 per month.
28. The Tribunal directed that the new rent of £1,090 per month should take effect from 25th 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.