



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

Case reference : CHI/18UG/MNR/2023/0265

Property : 33 Whiteley Avenue, Totnes,
Devon, TQ9 5FQ

Applicant Tenants : Mr Geoffrey Tucker

Representative : None

Respondent Landlord : Northwood Exeter

Representative : None

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 M J F Donaldson FRICS

Date of decision : 9 January 2024

REASONS

© CROWN COPYRIGHT

Decision of the Tribunal

On 9 January 2024 the Tribunal determined a Market Rent of £710.00 per month to take effect from 14 August 2023.

Background

1. By way of an application received by the Tribunal on 31 July 2023 the Applicant tenants of 33 Whiteley Avenue, Totnes, Devon, TQ9 5FQ (hereinafter referred to as “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 22 June 2023, proposed a new rent of £795.00 per month in lieu of a passing rent of £645.00 per month, to take effect from 14 August 2023.
3. The tenant states that a written tenancy agreement commencing on 18 November 2011 was entered into by the parties. A copy of the tenancy agreement was not provided.
4. On 15 November 2023 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on the 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. The Directions required the landlord and tenant to submit their completed statements to the Tribunal by 29 November 2023 and 13 December 2023 respectively, with copies to be sent to the other party. Both parties complied.
6. Having reviewed the submissions the Tribunal concluded that the matter remained 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 every point referred to in submissions but, instead, concentrate on those issues which, in its view, it considers fundamental to the application.

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 it externally via information obtained from publicly available online platforms.
11. The property is a mid-terraced bungalow of undisclosed construction and age located in an established residential area, convenient for local facilities and public transport.
12. Accommodation comprises an entrance hall, reception room, kitchen, two bedrooms and bathroom.
13. The property has a single garage and private garden.
14. Heating is provided by electric wall-mounted heaters. Windows are upvc double glazed. Carpets and curtains are provided by the landlord. White goods are supplied by the tenant.

Submissions – Tenant (summarised)

15. Throughout his tenancy the tenant, with the landlord's consent, has undertaken various works of repair and maintenance to the property. On occasion the materials e.g. handrail replacement, shower head, wash hand basin and pedestal were provided by the landlord. However, all labour was supplied by the tenant at no cost to the landlord. Additional works of repair and maintenance were undertaken entirely at the tenant's expense.
16. The kitchen units, bath and toilet have not been modernised since the tenant agreed the tenancy in 2011.
17. The second bedroom is very small and is considered a walkway through to the rear garden.
18. The tenant was unable to identify any appropriate comparable rental properties online.

Submissions – Landlord (summarised)

19. The tenant has occupied the property for in excess of twelve years, during which time the rent has increased only once previously. The rental figure proposed remains below open market value.
20. An inventory and condition report prepared by Northwood, dated 6 July 2011, and which included useful photographs was provided. Additional photographs of the property were also submitted.
21. In support of the proposed rent the landlord relies on four comparable properties:

- i. **Follaton:** 2 double bedroom bungalow described as well presented, modern kitchen and integral appliances.
Advertised for 62 days at an asking rent of £950.00 per month.
June 2023.
- ii. **Follaton:** 2 bedroom detached bungalow described as offering basement storage and a large garden.
Advertised for 16 days at an asking rent of £925.00 per month.
February 2023.
- iii. **Punchards Down:** 2 bedroom semi-detached bungalow.
Advertised for 51 days at an asking rent of £895.00 per month.
December 2022.
- iv. **Hunters Moon:** 1 bedroom bungalow. No further details provided.
Advertised for 2 days at an asking rent of £875.00 per month.
October 2023.

Determination

22. The Tribunal has carefully considered all of the submissions before it.
23. 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 locality. The Tribunal has no regard to the current rent and the period of time which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the passing rent. In addition, the legislation makes it clear that the Tribunal is unable to account for the personal circumstances of either the landlord or the tenant.
24. The Tribunal assesses the rent for the property as at the date of the landlord's Notice. 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.
25. 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.
26. The tenant was unable to identify any comparable evidence of similar mid-terraced bungalows locally and the Tribunal is not surprised by this. The landlord relies on four comparables, each very different from the subject property, which again was to be anticipated due to the shortage of similar rental properties in the vicinity.
27. The Tribunal found the landlord's comparable evidence provided useful background information. However, as each comparable differed significantly from the subject, considerable adjustments were required. For example, whilst the subject is described as a 2-bedroom property the Tribunal concurs with the tenant that the second bedroom is considered

very small and is disadvantaged by providing access to the rear garden. The Tribunal was assisted in making this finding by the photographs submitted by both parties.

28. Three of the landlord's comparables were described as 2-bedroom bungalows, with one described as providing double bedroom accommodation.
29. From the sparse details accompanying each comparable it would appear that the bungalows differed from the subject in size, accommodation, modernisation, facilities and size of garden. No details were provided for the 1-bedroom property in Hunters Moon and the Tribunal were therefore unable to attribute any weight to this.
30. Weighing all the evidence before it against its own expert knowledge as a specialist Tribunal an open market rent of the property, in good tenantable condition, was determined as £825.00 per month.
31. Once the hypothetical rent 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.
32. As stated, the Tribunal considers the second bedroom to be very small and restricted by providing access to the rear garden. Additionally, the Tribunal find the kitchen fittings to be dated and although the carpets and curtains were provided by the landlord some eleven years ago the Tribunal consider that, by now, they are time expired. The Tribunal also take account of the inefficient electric heaters, some general want of repair and maintenance, and that the white goods are provided by the tenant.
33. Accordingly, the Tribunal finds that the condition of the property does fall short of the rental standard required by the market. In reflection of such differences, the Tribunal make a deduction of £115.00 per month from the hypothetical rent to arrive at an adjusted open market rent of £710.00 per month.
34. The rent of **£710.00 per month will take effect from 14 August 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.