



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

Case reference : CHI/29UM/MNR/2023/0244

Property : Flat 3, 37 High Street, Bluetown,
Sheerness, Kent, ME12 1RN

Applicant Tenant : Yasmin Westbrook & Jackson Pentland

Representative : Claire Rose Bryant

Respondent Landlord : Miss P Swift

Representative : Rule & Rule, Estate Agents

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

Tribunal member(s) : Mrs J Coupe FRICS
Ms C Barton MRICS
Mr M Woodrow MRICS

Date of decision : 25 January 2024

REASONS

Decision of the Tribunal

On 25 January 2024 the Tribunal determined a Market Rent of £550.00 per month, inclusive of water, to take effect from 17 October 2023.

Background

1. By way of an application received by the Tribunal on 12 October 2023, the Applicant tenants of Flat 3, 37 High Street, Bluetown, Sheerness, Kent, ME12 1RN (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 16 August 2023, proposed a new rent of £650.00 per month, inclusive of water, in lieu of a passing rent of £475.00 per month plus £15.00 water, to take effect from 17 October 2023.
3. The property was let to the tenants by way of an Assured Shorthold Tenancy agreement commencing 17 February 2022. A copy of the tenancy agreement was provided.
4. On 13 December 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 December 2023 and 12 January 2024 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 each point referred to in submissions but concentrate on those issues which, in the Tribunal’s view, are fundamental to the determination.

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 accordance 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 second floor studio-flat within a block of four similar units situated above commercial premises. The property is conveniently located for amenities and public transport. Accommodation consists of one room and a bathroom/WC. A small communal yard/bin area is available for all residents.
12. The living accommodation is heated by a wall-mounted electric heater. Windows are uPVC double glazed. No carpets or curtains are provided by the landlord, although inventory photographs suggest there is some form of vinyl floor covering or similar. The landlord supplies an oven and hob but no additional white goods.
13. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have a current Energy Performance Certificate (EPC) Rating of D.

Submissions – Tenant (summarised)

14. In Spring 2023, the property experienced severe water ingress as a consequence of a failed flat roof. Reparatory works were undertaken however dampness and ingress persist.
15. A series of undated photographs were provided which appear to show patches of damp plaster to the walls and ceilings, flaking paintwork, joinery deterioration and black spot mould.
16. Kitchen and bathroom fittings are in excess of ten years old. Undated photographs show mould and grime within the bathroom.
17. No comparable rental evidence was submitted by the tenants. However, comment was included that the landlord's comparables comprise one-bedroom flats, as opposed to studio accommodation.

Submissions – Landlord (summarised)

18. Inventory photographs dated 17 February 2022 evidence the property to have been in good condition at the commencement of the tenancy.
19. Following reports of water ingress in Spring 2023, repairs to the roof were undertaken. The landlord has been prevented from completing internal reparatory works by the tenants refusing access.

20. In response to the tenants' reporting an issue of excess moisture, the landlord's agent obtained a quotation and awaits client instructions.
21. The kitchen and bathroom are approximately nine years old but were in good condition when the property was let to the tenants in February 2022.
22. The proposed new rent includes water usage.
23. In support of the proposed rent, the landlord relies upon a *Rightmove - Best Price Guide* listing various one-bedroom flats, advertised as available to let on dates throughout 2023, at asking prices ranging from £600.00 - £675.00 per month.

Determination

24. The Tribunal has carefully considered all the submissions before it.
25. 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.
26. 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.
27. 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.
28. Weighing the landlord's evidence, (none having been provided by the tenants) against its own experience as a specialist and expert property Tribunal and its knowledge of rental values in the locality, the Tribunal determined the open market rent, in good tenantable condition, to be £610.00 per month
29. 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.
30. In this instance, the Tribunal determined that the subject property falls short of the standard required by the market as the curtains and some white goods are provided by the tenant, plus the heating is electric.
31. Furthermore, the tenant has submitted photographic evidence showing the property to be in want of repair and redecoration. Such evidence was not challenged by the landlord. The landlord claims that the tenants refused

access. However, no substantiating evidence of any attempts to gain access or subsequent refusal were provided. Likewise, the landlord failed to provide any evidence of the involvement of Swale Borough Council. Accordingly, the Tribunal find the property to be in disrepair.

32. The landlord's representative also accepts that additional works relating to excess moisture are awaiting client instructions.
33. In reflection of such differences, the Tribunal makes a deduction of £75.00 per month from the hypothetical rent.
34. No evidence of water usage or costings were provided by either party and the Tribunal therefore adopts the landlord's figure of £15.00 per month.
35. The Tribunal therefore determines the adjusted open market rent, inclusive of water, to be £550.00 per month.
36. The tenants made no submissions to the Tribunal in regard to delaying the effective date of the revised rent on grounds of hardship. Accordingly, the rent of **£550.00 per month will take effect from 17 October 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.