



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

Case reference : CHI/00MS/MNR/2023/0298

Property : 110 Bursledon Road, Southampton,
Hampshire, SO19 7LZ

Applicant Tenant : Ms V Weir

Representative : None

Respondent Landlord : IAMO Assets Ltd

Representative : Masbro Investments

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

Tribunal member(s) : Mrs J Coupe FRICS
Mr C Norman FRICS
Mr N Robinson FRICS

Date of decision : 16 February 2024

REASONS

Decision of the Tribunal

On 16 February 2024 the Tribunal determined a Market Rent of £1,440.00 per month to take effect from 5 January 2024.

Background

1. By way of an application received by the Tribunal on 15 December 2023, the Applicant tenant of 110 Bursledon Road, Southampton, Hampshire, SO19 7LZ (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 28 November 2023, proposed a new rent of £1,550.00 per month in lieu of a passing rent of £1,296.57 per month, to take effect from 5 January 2024.
3. The property was let to the tenant by way of an Assured Shorthold Tenancy agreement commencing 5 August 2022. A copy of the tenancy agreement was provided.
4. On 22 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 10 January 2024 and 24 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 two-storey detached house of masonry construction under a pitched roof, with a single-storey utility lean-to. The former garage, with a flat roof, has now been converted into a fourth bedroom. The property is situated close to local facilities and public transport, including mainline railway stations.
12. Accommodation comprises an entrance hall, reception room, kitchen, utility room, fourth bedroom and bathroom on the ground floor, and three bedrooms and a bathroom on the first floor. Externally: Off-road parking for one vehicle. Garden.
13. The property has gas central heating, electric bathroom heaters and double glazing. Floor and window coverings are provided by the landlord, albeit the tenant has replaced some windows coverings to suit her own preference. A cooker and washing machine are provided by the landlord.
14. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have an Energy Performance Certificate (EPC) Rating of D.

Submissions – Tenant

15. The tenant's submissions, excluding consideration of personal circumstances (which are to be disregarded in setting a market rent under the Act), can be summarised as follows.
16. The carpets, curtains and white goods pre-date 2021 and were left in the property by the previous owners.
17. The garden is open to the road and lacks privacy.
18. In February 2022, a temporary partition was erected in the reception room to create an additional bedroom. The partition was removed in September 2023.
19. In March 2022, the landlord undertook works of insulation to the property, including to the loft area.
20. The property was subject to an Improvement Notice, served by Southampton City Council pursuant to Section 11 & 12 of Part 1 of the Housing Act 2004, and dated 26 May 2023. The Notice identified a Category 1 hazard of excess cold, and a Category 2 hazard of damp and mould.

21. Remedial works were subsequently undertaken and, as a result, the Improvement Notice was revoked. A screenshot of a letter from Southampton City Council, also dated 26 May 2023, was provided in this regard.
22. The letter states that one item of the Improvement Notice remained outstanding at that date, namely the dampness to the wall separating the kitchen and utility room. The letter continues “The issue should be investigated and remedied, however as it is not a Category 1 hazard under the Housing Act, we will not look to take any further action at this time”.
23. The tenant drew attention to the following areas of concern:
 - i. Disrepair to the front door which causes a draught;
 - ii. Kitchen: Exceptionally small kitchen for a family house; no window or extractor fan; limited storage and worktop space; dated units rising damp and mould;
 - iii. Lean-to utility room: excess cold; general disrepair and lack of maintenance; damp and mould; foul waste drain located within the utility room. Remedial works required by the Improvement Notice have not been completed;
 - iv. Garage conversion: general disrepair and lack of maintenance, culminating in a report to the Local Authority who subsequently served an Improvement Notice;
 - v. General disrepair, dampness and lack of maintenance in various other parts of the property both internally and externally;
 - vi. Externally: garden is uneven and in a poor condition. Difficult roadside access and no visitors parking; inadequate drainage.
24. In support of her application the tenant referred the Tribunal to two comparable properties.
25. The first comparable is a 3-bedroom semi-detached house in Bursledon Road advertised as available to let on *Zoopla* for an asking price of £1,400 per month. The property offers 2 reception rooms, a modern kitchen, private garden and off-road parking.
26. The second comparable is a 3-bedroom semi-detached house in Surrey Road advertised as available to let on *Zoopla* for an asking price of £1,300 per month. The property provides 2 reception rooms, garden, parking and is modernised throughout.

Submissions – Landlord

27. The landlord’s submissions can be summarised as follows.
28. The property is located within a popular residential area with six schools and three railway stations within close proximity.

29. Improvements undertaken by the landlord include insulation of the loft area and bedroom 4, replacement flat roof covering, and installation of a heated towel rail in the ground floor bathroom and a heater in the first floor bathroom.
30. The landlord refers to the tenant having installed, without landlords' permission, a partition between the living room and dining area, creating an additional bedroom.
31. A series of undated photographs taken prior to occupation, and photographs of the partition erected by the tenant, were included. Additionally, a useful layout and location plan dated April 2021 were provided.
32. The landlord considers the market value for similar properties to be between £1,650 - £1,950 per month and attributes a value of £1,750 per month to the subject property.
33. In support of the proposed rent the landlord refers to a property in Whites Road which is advertised on *Rightmove* at an asking price of £1,600 per month. The property is semi-detached and smaller than the subject. No particulars were provided.

Determination

34. The Tribunal has carefully considered the submissions of each party.
35. 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.
36. 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.
37. 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.
38. The landlord relied upon a 3-bedroom property in Whites Road advertised at £1,600 per month. The landlord chose not to include the particulars of the property and the Tribunal was therefore unable to draw any conclusions from this comparable, other than that the accommodation provided was less than the subject property. The tenant's comparables were both 3-bedroom semi-detached houses. In the Tribunal's experience, detached properties command a higher rental price than those which are

semi-detached. Furthermore, it is common ground that the subject property offers 4-bedroom accommodation.

39. Weighing the parties' evidence against its own expert knowledge as a specialist Tribunal, the Tribunal determined that the open market rent of the property in good tenable condition is £1,600.00 per month.
40. 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.
41. It is common ground that, following works of remedy and improvement, the Improvement Notice issued by the Local Authority was revoked. Accordingly, with the exception of the outstanding works to the kitchen/utility dampness, the Tribunal disregard all other deficiencies identified within the Notice as, by the pertinent date, they had been rectified.
42. The Tribunal has had regard to the undisputed statement of the tenant in regard to additional areas of minor disrepair and, accordingly, find the property to be in want of some general maintenance.
43. From the photographs and accommodation layout plan provided, the Tribunal finds the kitchen to be small in comparison to a typical 4-bedroom detached house, lacking in storage and workspace, and disadvantaged by the lack of any natural ventilation i.e. a window. The Tribunal acknowledges that the size of the kitchen is, to a degree, mitigated by the presence of a utility area. However, the Tribunal accepts that the utility is little more than a lean-to with no heating and a foul-water drain located within.
44. In reflection of such differences, the Tribunal makes a deduction of 10% from the hypothetical rent to arrive at an adjusted open market rent of £1,440.00 per month.
45. The tenant made no submissions to the Tribunal in regard to delaying the effective date of the revised rent on ground of undue hardship under section 14(7) of the Act. Accordingly, the rent of **£1,440.00 per month will take effect from 5 January 2024**, 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.