



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

Case reference : CHI/21UD/MNR/2024/0026

Property : 34 Buchanan Gardens, St.Leonards-on-Sea,
East Sussex, TN38 0GA

Applicant Tenant : Dr A Koumousidis & Mrs C Ilia

Representative : None

Respondent Landlord : Mr A Webb & Mrs P Webb

Representative : Meridan Property (UK) Limited

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

Tribunal member(s) : Mrs J Coupe FRICS
Mr R Waterhouse FRICS
Ms C Barton MRICS

Date of determination : 22 March 2024

Date of reasons : 26 April 2024

REASONS

Decision of the Tribunal

On 22 March 2024 the Tribunal determined a Market Rent of £1,330.00 per month to take effect from 1 February 2024.

Background

1. By way of an application received by the Tribunal on 26 January 2024 the Applicant tenants of 34 Buchanan Gardens, St. Leonards-on-Sea, East Sussex, TN38 0GA (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 20 December 2023, proposed a new rent of £1,400.00 per month in lieu of a passing rent of £1,200.00 per month, to take effect from 1 February 2024.
3. The property was let to the tenants by way of an Assured Shorthold Tenancy agreement commencing 1 October 2015. A copy of the tenancy agreement was provided.
4. On 16 February 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 1 March 2024 and 15 March 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 external images on publicly available online platforms.
11. The property is a modern semi-detached house with accommodation over three floors comprising kitchen, living room and WC on the ground floor, two rooms and a bathroom on the first floor, and a further two rooms and an ensuite bathroom on the second floor. Externally the property has a garden and driveway parking. The property is double glazed and has gas-fired central heating and was let with floor coverings and a cooker.
12. The property is situated in an established residential area, convenient for local facilities and public transport.

Submissions – Tenants

13. The tenants' submissions, excluding consideration of personal circumstances (which are to be disregarded in setting a market rent under the Act), can be summarised as follows.
14. The landlord has failed to undertake regular maintenance in a timely manner, resulting in the tenants referring the condition of the property to Hastings Borough Council. An inspection of the property was undertaken by the Council in July 2023, following which the landlord was notified of a number of Category 2 hazards, upon which non-mandatory recommendations were made.
15. Various works of repair and maintenance were undertaken by the landlord during 2023/2024. However, not all recommendations made by Hastings Borough Council were carried out and a number of defects, as evidenced by a series of undated photographs, remain outstanding.
16. Two of the upper floor rooms are considered too small to be classed as bedrooms, although one, at times, has been utilised as such and the other room used as a study.
17. Off-street parking is provided however use of the allocated parking restricts access to the property.
18. The tenants consider the passing rent to be in excess of market value and seek a reduction in rent, albeit that they do not advance a figure they consider reasonable. No comparable rental evidence was provided.

Submissions – Landlord

19. The landlords' submissions, excluding consideration of personal circumstances which are to be disregarded in setting a market rent, can be summarised as follows.
20. The landlord provides a list of repairs and maintenance undertaken to the property in 2023 and 2024 and acknowledges that the reception room ceiling still requires redecoration and a faulty kitchen light requires investigation, a contractor for which has been instructed.
21. An inventory and schedule of condition dated 30 September 2015 was provided, along with various invoices for works undertaken at the property.
22. The landlord values the property at a rental price of £1,400 - £1,500 per month, in support of which the landlord relies upon seven comparable letting properties with asking prices ranging from £1,250 - £1,550 per month, advertised as available to let between August 2023 – February 2024. Brief details of each were provided.

Determination

23. The Tribunal has carefully considered all the submissions before it.
24. 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.
25. The date at which the Tribunal assesses the rent is the effective date contained within the landlord's Notice which, in this instance, is the 1 February 2024. 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.
26. 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 on the effective date and in the condition that is considered usual for such a market letting.
27. The landlord contends for an open market rent of between £1,400 - £1,500. The tenants, in their submissions, state that the passing rent of £1,200 is excessive and they seek a reduction. However, in a letter from their solicitors, Cramp & Mullaney, dated 12 January 2024, to the landlord their position appears to be that once the repairs and maintenance issues identified by the Council are undertaken, the tenants will accept the higher rent: "Our client's position is that he would agree to the new rent once the works have been completed". The tenants therefore appear to be in agreement that

the hypothetical open market rent of the property, in good condition, is at the lower end of the £1,400 - £1,500 bracket submitted by the landlord.

28. Weighing the parties' comparable evidence against its own expert knowledge as a specialist Tribunal and having regard to the size of the third and fourth rooms on upper levels, those being the rooms used as a study and, on occasion, as a small bedroom, and the compact nature of the living accommodation, plus the evidence of the parties referred to in paragraph 27 above, the Tribunal determined that the open market rent of the property in good tenable condition is £1,400.00 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. The Tribunal had regard to the Category 2 hazards identified by Hastings Borough Council in accordance with the Housing, Health and Safety Rating System (HHSRS). Recommendations and guidance were provided to the landlord in respect of such hazards. However, it was noted by the Tribunal that none of the hazards were deemed of sufficient severity to warrant a Category 1 classification.
31. The Tribunal finds that the property is no longer in pristine condition, yet neither is the house in significant disrepair. In recognition of the outstanding works of repair and maintenance, as undisputed by the landlord, and general wear and tear on the property, plus the tenants' provision of curtains and partial white goods, the Tribunal finds that a 5% deduction in the hypothetical rent is warranted.
32. Accordingly, the Tribunal finds the adjusted open market rent to be £1,330 per month.
33. The tenants made no submissions to the Tribunal in regard to delaying the effective date of the revised rent on the ground of undue hardship under section 14(7) of the Act. Accordingly, the rent of **£1,330.00 per month will take effect from 1 February 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.