



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

Case reference : **CHI/00ML/MNR/2024/0048**

Property : **10 Looes Barn Close, Saltdean,
Brighton, BN2 8GZ**

Applicant : **P Johnson & A Bouri**

Representative : **In Person**

Respondent : **Mr R Hyder,**

Representative : **C/O Ian Hyder & Co**

Type of application : **Market Rent under s13 & 14 of the
Housing Act 1988**

Tribunal member(s) : **Mr R Waterhouse FRICS
Mr S Hodges FRICS
Mr M Woodrow MRICS**

Date and venue of hearing : **8 May 2024 Determination on Papers**

Date of Decision : **10 May 2024**

DECISION

Decision of the Tribunal

The Tribunal is required to determine a rent under section 14 of the Housing Act 1988, a rent that the property would let for in the open market. The landlord has requested a rent of **£1900** per month from **2 April 2024**.

The tribunal determines the rent at **£1800** per month from **2 April 2024**.

Background

- 1.** The Tribunal received an application under section 13 of the Housing Act 1988 received **28 February 2024**. This included the landlord's notice dated **1 February 2024** proposing a new rent to commence on **2 April 2024**. The previous rent being **£1750** per month and the proposed rent **£1900** per month from **2 April 2024**.
- 2.** The Tribunal issued Directions on the 22 March 2024 informing the parties, that unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were also invited to make submissions that could include photographs and videos.
- 3.** No inspection or oral hearing was requested from the tenant or the landlord and so the matter was determined on papers.
- 4.** The property is a detached house, comprising, one living room, two bedrooms, dressing room/bedroom 3, three bathrooms, dining room, kitchen, conservatory, garage (loft area retained by landlord) and back garden.
- 5.** The property occupies a corner plot within an established residential area on the outskirts of Saltdean. Local amenities are available with further facilities in nearby Brighton.
- 6.** The tenancy commenced on the 2nd September 2019 for 12 months at **£1650** per month.

The Bundle

Applications Submissions

7. The applicants' application form noted that all repairs were the responsibility of the landlord, in addition it contained a copy of the Landlords Notice of Rent Increase.

Additionally in the application form it is noted the tenant spent £1000 on gardening and washing the drive.

The applicant tenant submitted a rent appeal statement. This sets out the accommodation and confirms that the landlord supplied the double glazing, central heating and floor coverings. Additionally, that the landlord let the property with cooker, dishwasher and washing machine.

The tenant under the section of the form titled “improvements” noted several issues that had arisen these included;

leak in upstairs bathroom, new shower installed, and downstairs bathroom ceiling collapsed, paint bubbles and damp on certain walls leading to upstairs, garden cut back by tenants and tree fell in storm with removal taking a few weeks, Southern water leak causing flooding to back garden, back door doesn't close properly, skylight window was broken, upstairs WC in bathroom does not work, temperature for upstairs bath is inadequate, house number replaced ,doorbell replaced, boiler problems, but now rectified but concern boiler is old, fireplace does not function, extractor fan filter replaced by tenant and blind in bedroom malfunctioned.

There is a general concern the property is dated in nature.

The applicant provides a number of two- and three-bedroom comparables of rental properties with asking rents ranging from £1495 to £1850.

Respondents Submission

- 8.** The Respondent Landlord submitted a completed Reply Form, which sets out the accommodation in detail and notes it extends to 176.2 sqm. The Reply Form includes copies of photographs of the original marketing interior of the property.

The landlord describes the property as a detached chalet style residence and states the accommodation comprises: Ground floor – Hallway, Lounge, Dining, Room, Conservatory, Kitchen Bedroom, Shower Room/WC. First Floor- Two Bedrooms (one ensuite with Shower/ WC), Bathroom/WC.

The landlord says he supplied double glazing, gas central heating and floor coverings and that, additionally he supplied the washing machine, cooker

and dishwasher. In terms of parking, there is a garage and off-street parking.

The Reply Form notes a number of improvements carried out by the landlord. Those carried out since the start of the tenancy in February 2019 comprise;

ensuite shower cubicle tiles replaced March 2022

various fencing and gate issues November 2022

velux window replaced in bedroom one, May 2022

exterior decoration, March 2023.

consumer unit replaced – 2021

The tenancy commenced in March 2019 at £1650 per month, the landlord submits that a £150 increase in 5 years is warranted. From the papers it appears the landlord may have changed from the landlord who had originally let the property.

Copy of tenancy agreement effective from 2nd September 2019 as supplied by landlord.

The landlord provides a set of comparables of mostly three bedroom properties with asking rents ranging from £ 1500 to £2350 per month.

The Law

9. Sections 13 and 14 of the Housing Act 1988 (“the 1988 Act”) make provision for the increase of rent under an assured periodic tenancy. 10. Under section 14 of the 1988 Act, the Tribunal must determine the rent that would be obtained in respect of the same property on a new letting on the open market by a willing landlord under an assured tenancy, on otherwise similar terms (other than rent) to the existing tenancy. The rent so determined must, however, disregard the effect on the rent of the granting of the tenancy to a sitting tenant; any increase in the value of the property as a result of improvements carried out by the tenant during the tenancy (or a previous tenancy), otherwise than as a result of his or her obligations to the landlord under the lease; or any reduction attributable to a failure to comply with such an obligation.

The Determination.

10. The Tribunal has carefully noted the nature, location, specification and condition of the property. The Tribunal has also considered the layout of the rooms and determines the market would view the property as a three-bedroom chalet bungalow. Whilst there have been repairing issues over the years, and some remain unresolved, it is the condition of the property at the date of the proposed increase which is important. The outstanding repairs are minor in nature but none the less detract from a pristine condition. The landlord has some goods stored in the loft area of the garage; The tenant can use the garage itself without hinderance from the stored material. None the less the presence of the landlords' goods does detract from the full utility value of the garage.
11. The Tribunal has considered the rental information provided by the landlord and the tenant and used its own knowledge as an expert Tribunal. The Tribunal considers the property would, in a condition with the outstanding repairs carried out, and full use of the garage attract a bid of £1900 per month.
12. The Tribunal considering the minor outstanding repairs and reduced utility of the garage determines a figure of £1800 per month.

Effective date of the Decision

13. The Tribunal has discretion over the effective date of a rental increase determined by the tribunal, if a case for hardship is made and accepted by the Tribunal. The tenant has not made a case of hardship and so the tribunal therefore determines the rent should have effect from the date of the Notice which is the **2 April 2024.**

Name: Chairman Waterhouse

Date: 10 May 2024

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

THE LEGISLATION

Housing Act 1988

s.13.— Increases of rent under assured periodic tenancies.

(1) This section applies to—

(a) a statutory periodic tenancy other than one which, by virtue of paragraph 11 or paragraph 12 in Part I of Schedule 1 to this Act, cannot for the time being be an assured tenancy; and

(b) any other periodic tenancy which is an assured tenancy, other than one in relation to which there is a provision, for the time being binding on the tenant, under which the rent for a particular period of the tenancy will or may be greater than the rent for an earlier period.

(2) For the purpose of securing an increase in the rent under a tenancy to which this section applies, the landlord may serve on the tenant a notice in the prescribed form proposing a new rent to take effect at the beginning of a new period of the tenancy specified in the notice, being a period beginning not earlier than—

(a) the minimum period after the date of the service of the notice; and

(b) except in the case of a statutory periodic [tenancy—]

[

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the first period of the tenancy began;

(ii) in any other case, on the date that falls 52 weeks after the date on which the first period of the tenancy began; and

]

(c) if the rent under the tenancy has previously been increased by virtue of a notice under this subsection or a determination under section 14[below—]

[

(i) in the case of an assured agricultural occupancy, the first anniversary of the date on which the increased rent took effect;

(ii) in any other case, the appropriate date.

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(3) The minimum period referred to in subsection (2) above is—

(a) in the case of a yearly tenancy, six months;

(b) in the case of a tenancy where the period is less than a month, one month; and

(c) in any other case, a period equal to the period of the tenancy.

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(3A) The appropriate date referred to in subsection (2)(c)(ii) above is—

(a) in a case to which subsection (3B) below applies, the date that falls 53 weeks after the date on which the increased rent took effect;

(b) in any other case, the date that falls 52 weeks after the date on which the increased rent took effect.

(3B) This subsection applies where—

(a) the rent under the tenancy has been increased by virtue of a notice under this section or a determination under section 14 below on at least one occasion after the coming into force of the Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003; and

(b) the fifty-third week after the date on which the last such increase took effect begins more than six days before the anniversary of the date on which the first such increase took effect.

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(4) Where a notice is served under subsection (2) above, a new rent specified in the notice shall take effect as mentioned in the notice unless, before the beginning of the new period specified in the notice,—

(a) the tenant by an application in the prescribed form refers the notice to [the appropriate tribunal] ; or

(b) the landlord and the tenant agree on a variation of the rent which is different from that proposed in the notice or agree that the rent should not be varied.

(5) Nothing in this section (or in section 14 below) affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

s.14.— Determination of rent by [tribunal] .

(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to [the appropriate tribunal] a notice under subsection (2) of that section, the [appropriate tribunal]³ shall determine the rent at which, subject to subsections (2) and (4) below, the [appropriate tribunal]³ 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.

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(3A) In making a determination under this section in any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is

liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, the [appropriate tribunal] shall have regard to the amount of council tax which, as at the date on which the notice under section 13(2) above was served, was set by the billing authority—

(a) for the financial year in which that notice was served, and

(b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

(a) “*hereditament*” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,

(b) “*billing authority*” has the same meaning as in that Part of that Act, and

(c) “*category of dwellings*” has the same meaning as in section 30(1) and (2) of that Act.

(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 of the dwelling-house concerned or are payable under separate agreements.

(5) Where any rates in respect of the dwelling-house concerned are borne by the landlord or a superior landlord, the [appropriate tribunal] shall make their determination under this section as if the rates were not so borne.

(6) In any case where—

(a) [the appropriate tribunal] have before them at the same time the reference of a notice under section 6(2) above relating to a tenancy (in this subsection referred to as “the section 6 reference”) and the reference of a notice under section 13(2) above relating to the same tenancy (in this subsection referred to as “the section 13 reference”), and

(b) the date specified in the notice under section 6(2) above is not later than the first day of the new period specified in the notice under section 13(2) above, and

(c) the [appropriate tribunal]⁹ propose to hear the two references together, the [appropriate tribunal] shall make a determination in relation to the section 6 reference before making their determination in relation to the section 13 reference and, accordingly, in such a case the reference in subsection (1)(c) above to the terms of the tenancy to which the notice relates

shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 6 reference.

(7) Where a notice under section 13(2) above has been referred to [the appropriate tribunal] , then, unless the landlord and the tenant otherwise agree, the rent determined by [the appropriate tribunal] (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to [the appropriate tribunal] that that would cause undue hardship to the tenant, that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the committee may direct.

(8) Nothing in this section requires [the appropriate tribunal] to continue with their determination of a rent for a dwelling-house if the landlord and tenant give notice in writing that they no longer require such a determination or if the tenancy has come to an end.

(9) This section shall apply in relation to an assured shorthold tenancy as if in subsection (1) the reference to an assured tenancy were a reference to an assured shorthold tenancy.