



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

Case Reference : **CHI/45UG/MNR/2024/0086**

Property : **Flat 32 Ribbetts House
Trinity Road
Hurstpierpoint
Hassocks
West Sussex
BN6 9XE**

Applicant Tenant : **Mrs E A Kelly**

Representative : **None**

Respondent Landlord : **Clarion Housing**

Representative : **None**

Type of Application : **Determination of a Market Rent sections
13 & 14 of the Housing Act 1988**

Tribunal Members : **Mr I R Perry FRICS
Mr J S Reichel MRICS
Mr M C Woodrow MRICS**

Date of Inspection : **None. Paper determination**

Date of Decision : **10th June 2024**

DECISION

Summary of Decision

1. On 10th June 2024 the Tribunal determined a market rent of £935 per month, including service charge, to take effect from 1st April 2024.
2. This determination is higher than the rent notified by the Landlord who is not required or obliged to charge the higher figure.

Background

3. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
4. On 12th February 2024 the Landlord, a registered Housing Association, served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £783.85 per month to include a fixed service charge of £262.71 per month, in place of the existing rent of £726.98 per month to take effect from 1st April 2024. The existing rent included a fixed service charge of £243.10 per month. The notice complied with the legal requirements.
5. On 27th March 2024 the Tenant applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
6. Within her application the Tenant states that she is unable to provide a copy of her tenancy agreement as she took an assignment from a previous tenant but, despite requests to the Landlord, has never been provided with a copy of the tenancy agreement.
7. The Tribunal does not routinely consider it necessary and proportionate in cases of this nature to undertake inspections or hold Tribunal hearings unless either are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
8. The Tribunal issued directions on 8th May 2024 informing the parties that, unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
9. Within the directions the Landlord was directed to provide a copy of the tenancy agreement which was assigned to the Applicant Tenant on 5th October 2020. The Landlord has not complied with this direction which prevents the Tribunal from deciding whether this is an assured tenancy or a secure contractual tenancy over which the Tribunal would not have jurisdiction. As the Landlord made no submission to the Tribunal the Tribunal has determined the rent on the basis that this is an assured tenancy.

10. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 10th June 2024 based on the written representations received.
11. These reasons address **in summary form** the key issues raised by the parties. They do not recite each and every point referred to either in submissions or during any hearing. However, this does not imply that any points raised, or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, then it was considered by the Tribunal. The Tribunal concentrates on those issues which, in its opinion, are fundamental to the application.

The Law

S14 Determination of Rent by First-tier Tribunal

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal 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 to 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.
- (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.

The Property

12. From the information given in the papers and available on the internet, the property comprises a ground floor flat within a modern purpose built 3-storey building of some 33 flats with a manager's office and communal Gardens.
13. The flat comprises 1 Bedroom, Living Room, Kitchen and Bathroom/WC. Local shops and amenities are close by.
14. The building is within a cul-de-sac that is itself within a village about 2 miles southeast of Burgess Hill

Submissions

15. The initial tenancy began on 31st March 2014 and was assigned to Mrs Kelly in October 2020. Despite her requests the Landlord has not provided her with a copy of the tenancy agreement for her home but has only been provided with a sample lease of a similar 1-bedroom flat in Middle Way, Burgess Hill.
16. In her submission the Tenant states that the property is double glazed and centrally heated, that she provides carpets, curtains and white goods, and that the property is in fair condition.
17. Mrs Kelly believes that the various tenants in the building are paying different rents and service charges.
18. The Tribunal was provided with a breakdown of the service charge for the new year commencing 1st April 2024 in the sum of £262.71 per month for this flat which includes £59.99 for personal heating and hot water supplied from a central heat source.

Consideration and Valuation

19. The Tribunal first considered whether it felt able to reasonably and fairly decide the rent in this case based on the papers submitted only, with no oral hearing. Having read and considered the papers it decided that it could do so.
20. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy. The personal circumstances of the Parties are not relevant to this issue.
21. Rents are usually based on transactions for similar properties in the open market assuming that the properties are let in generally good condition with carpets, curtains, cooker, fridge and washing machine all provided by the Landlord. The cost of provision of hot water and heating would be the responsibility of the Tenant. The Landlord would normally be responsible for the other costs detailed in the breakdown of the service charge sent by the Landlord.
22. Having carefully considered the representations from the parties and associated correspondence, and using its own judgement and knowledge of rental values in the general area, the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £950 per month.
23. The subject property is not let on these terms so the Tribunal decided that an adjustment of £30 per month should be made to reflect the fact that the Tenant provides the white goods, an adjustment of £30 per month to reflect the Tenant's provision of carpets and £15 per month to reflect the provision of curtains.
24. In addition, the Tribunal needs to reflect the fact that the personal hot water and heating are provided within the charges to the Tenant at a cost of £59.99 per month for the coming year. The Tribunal has rounded this figure to £60 per month.
25. Accordingly, the rent that would be payable in the open market is £950 less £75 = £875, plus £60 to cover the hot water and heating, = £935 per month, which includes the gross service charge of £262.71 per month
26. The Landlord in this case is a registered Housing Association which limits occupation of flats in the building to persons over 55 years of age and does not charge full open market rents.
27. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

Determination

28. The Tribunal therefore decided that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under

the terms of this assured tenancy was £935 per month including the service charge of £262.71 per month.

29. The Tribunal directed that the new rent of £935 per month should take effect from 1st April 2024 this being the date specified in the notice.
30. This determination is higher than the rent notified by the Landlord who is not required or obliged to charge the higher figure.

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 to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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.