



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

Case reference : **CHI/21UF/MNR/2023/0272**

Property : **18c Pelham Road, Seaford, East Sussex
BN25 1ES**

Applicant : **Mr Paul Crossweller & Ms Glynis Ellen
Walker**

Representative : **None**

Respondent : **Mr Nazir Miah**

Representative : **None**

Type of application : **Section 13(4) Housing Act 1988**

Tribunal members : **Mr Duncan Jagger MRICS
Miss C Barton MRICS**

Venue : **Video Hearing**

Date of decision : **15th July 2024**

DECISION

Decision of the tribunal

- (1) Having heard evidence and submissions from the parties and considered all the documentation provided, the Tribunal determines that the rent that the property in its current condition as at 17th December 2023 might reasonably be expected to achieve under an assured tenancy is **£665 per month**.

Background

1. Mr Crossweller has lived in the property as assured periodic tenant since 2004 under an Assured Shorthold Tenancy Agreement. A new joint tenancy agreement was entered into by the parties on 17th July 2024.
2. The accommodation comprises one bedroom, living room, kitchen, bathroom.
3. On 7th November 2023 the landlord served a notice pursuant to section 13(2) of the Housing Act 1988 seeking to increase the rent from £800 per month to £880 per month effective from 17th December 2023. This, however, is incorrect as both the landlord and the tenants confirmed to the Tribunal that the current passing rent is £680 per month. The tenancy agreement states the Rent is “£680 per month until the windows are fixed then the rent will be £800 per month” The handwritten clause is rather difficult to decipher but the Tribunal is satisfied, whether or not the windows have been refixed, that the passing rent is £680 per month.
4. By an application dated 14th November 2023, the tenants referred that notice to the Tribunal for a determination of the market rent. The Tribunal issued initial Directions for the conduct of the matter on 29th November 2023. Following a request by the tenants for an inspection and hearing, further Directions were issued by the Tribunal on the 18th June 2024. The Tribunal is not aware why this matter has been delayed for so long.

The Evidence

5. The bundle of evidence includes a background to the case, the application, the tenancy agreement, two completed Rent Appeal Statements with comparable evidence provided by the landlord, and helpful photographs submitted by the tenants.
6. Based on the evidence before the Tribunal it is evident that the parties have had a difficult history, and it could be said that communications are very frustrated There is ongoing Local Authority intervention. In fact, an Improvement Notice was served on the landlord dated 19th June 2024. This was subsequently revoked by the Local Authority upon a technical matter as the Notice was served under the incorrect Council jurisdiction.

The Inspection

7. The Tribunal inspected the property on the morning of the 15th July 2024 in the presence of Mr Croweller the tenant. The landlord, Mr Miah did not attend.
8. The property is a converted second floor flat forming part of a three storey Victorian building with rendered stucco elevations under a pitched and tiled roof with a perimeter box gutter behind a parapet wall. The property is approached via a communal hallway and staircase shared with one other flat on the first floor. Internally, the kitchen and bathroom fittings are some 13 years old and general refurbishment is required. Central heating is provided by a gas boiler to radiators. The main walls to the common parts and the flat are suffering from chronic damp due to penetrating water ingress via the exposed solid walls and defective roof. This has caused plasterwork to crumble; walls are damp to the touch with significant mould. In its current condition, the property represents a health hazard to the occupiers and as such would have very restricted marketability. The photographic evidence provided by the tenants in the bundle amplified the condition of the property which has suffered significant neglect.

The Hearing

9. The Video hearing took place at 12.30pm following the inspection. It was attended by the Tenant Mr Croweller and the landlord Mr Miah. At the hearing each party was provided with the opportunity to outline their respective cases. The supporting documents set out a chronology of events which, on the whole is generally agreed between the parties and the Tribunal does not propose to provide the details in this decision.

The Tenants' case

10. The tenants did not provide comparable evidence for the flat. The tenants state the subject property has suffered serious neglect resulting in damp, mould and crumbling plaster to the main walls. The double glazed windows are defective with ill-fitting units and misting to the glazing. In addition, the flat requires significant refurbishment all of which must be reflected in the rental figure. Since the last rental figure of £680 was agreed, the condition of the flat has deteriorated further.

The Landlords' case

11. Mr Miah confirmed that the proposed rental figure of £880 per month for the flat is backed up by the comparable evidence provided to the Tribunal. The landlord states he has made several attempts with his tradesmen to carry out necessary repairs but access has been denied by the tenant. This is vehemently rejected by the tenant.

The Law

12. The rules governing a determination are set out in section 14 of the Housing Act 1988. In particular, the Tribunal is to determine the rent at which the property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy, subject to disregards in relation to the nature of the tenancy (i.e. it being granted to a “sitting tenant”) and any increase or reduction in the value due to the tenant’s improvements or failure to comply with the terms of the tenancy. In the absence of any evidence to the contrary, the Tribunal has proceeded on the basis that the landlord is responsible for repairs to the structure, partial exterior and any installations pursuant to section 11 of the Landlord and Tenant Act 1985.

The Valuation

16. Having carefully considered all of the evidence, and using its knowledge and experience the Tribunal considers that the rent that would be achieved damp free in good condition with refurbished kitchen and bathroom fittings, external maintenance, internal renovation, modern services, and carpets, curtains and white goods supplied by the landlord would be **£950** per month.
17. That however is the rent that would be achieved if the property was let in good condition with all modern amenities. The Tribunal must disregard any increase in rental value attributable to the tenants improvements, unless they are carried out under an obligation to the landlord. The Tribunal has been provided with a copy of the tenancy agreement, which incorporates the usual repair obligations.
18. Based upon the evidence provided to the Tribunal we consider that the rent should be reduced by **30% (£285)** to reflect the matters considered above. Therefore, our deduction reduces the rental figure to **£665** per month
19. It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the Tribunal’s estimate of the amount by which the rent would need to be reduced to attract a tenant.
20. Therefore the Tribunal determines the market rent in accordance with Section 13(4) of the Act to be **£665** per month.
21. The Tribunal received no evidence of hardship from the Tenant and, therefore, the rent determined by the tribunal is to take effect from **17th December 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).