



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

Case reference : CHI/24UG/MNR/2024/0131

Property : 9 Rotten Green, Hook, Hampshire,
RG27 8BJ

Applicant Tenant : Miss C Fullbrook

Representative : None

Respondent Landlord : The Elvetham Estate

Representative : Fowler Fortescue

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

Tribunal member(s) : Mrs J Coupe FRICS
Mrs A Clist MRICS

Date of inspection : 19 July 2024

Date of reasons : 19 July 2024

REASONS

Decision of the Tribunal

On 19 July 2024 the Tribunal determined a Market Rent of £1,050.00 per month (£3,150.00 per quarter) to take effect from 24 June 2024.

Background

1. By way of an application received by the Tribunal on 17 May 2024 the Applicant tenant of 9 Rotten Green, Hook, Hampshire, RG27 8BJ (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 19 March 2024, proposed a new rent of £3,600.00 per quarter in lieu of a passing rent of £2,333 per quarter, to take effect from 24 June 2024.
3. The tenant occupied the property under an assured tenancy by way of succession. A copy of a tenancy agreement dated 3 May 1960 between Brigadier Sir Richard Hamilton Anstruther Gough Calthorpe, Baronet and G.J.Fullbrook. Esq. (the tenant’s late father) was provided.
4. On 24 May 2024 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. On 20 June 2024 the tenant requested an inspection of the property.
5. The Directions required the landlord and tenant to submit their completed statements to the Tribunal by 7 June 2024 and 21 June 2024 respectively, with copies to be sent to the other party. Both parties complied.
6. Having reviewed the submissions a Procedural Chairman concluded that, in accordance with the overriding objective of the Tribunal, an inspection of the property would be undertaken.
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 Inspection

10. The inspection was undertaken at 12.30pm on 19 July 2024. The tenant was in attendance and the landlord was represented by Mr Jonathan Bury, Associate Director of Fowler Fortescue.
11. Upon arrival the tenant refused internal access to Mr Bury. However, keen for the matter to be resolved, Mr Bury indicated that he was content for the Tribunal to inspect the property solely in the presence of Miss Fullbrook, following which the Tribunal Chairman would debrief him (in the presence of the tenant) as to what the panel had been shown. In the event, Miss Fullbrook was too unwell to join the debrief but was equally content for the Chairman to set out to Mr Bury, in her absence, what the Tribunal had inspected.

The Property

12. The property is a Victorian semi-detached cottage, typical of a farm workers' cottage of its time, situated in a large plot. The property is built of masonry walls beneath a pitched and tiled roof.
13. The accommodation is set out over two floors and comprises a living room, kitchen, pantry and bathroom at ground floor level, and three bedrooms at first floor level. The property is, in the main, double glazed and is heated by a gas fired combination boiler to radiators, gas supplied to a bulk tank situated in the garden.
14. The parties are in agreement that whilst the heating system was installed by the tenant's late father, the boiler, radiators and some pipework have since been replaced and are now maintained by the landlord. It was also common ground that the double glazed windows to the front elevation were installed by the tenant's family in or around 1998, whilst the rear double glazed units were installed by the landlord in or around 2016.
15. The kitchen units were installed by the tenant in c.2005. The bath dates from 1959.
16. The carpets, curtains and white goods are provided by the tenant.
17. Externally the property has a large garden and carport parking, built by the tenant's family.
18. The property is situated in a rural area, close to woodland and to the M3 motorway, the latter of which creates considerable noise disturbance. Local facilities, including a supermarket and public house are within a short drive.

Submissions – Tenants

19. 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.
20. The landlord undertook partial remedial works to address rising dampness and to redecorate in 2023, the former resulting in uneven floor surfaces and insect infestation.
21. In March 2023, the landlord treated bathroom dampness with a wall sealant. However, surface mould has since reappeared, small patches of which, at ground level, were shown to the Tribunal.
22. The Tribunal were shown a patch of water ingress at ceiling height in the small bedroom. Neither this nor the bathroom mould had been reported to the landlord.
23. A long-standing surface crack beneath the stairs was evident, which the tenant assumed, but was unable to confirm, that her late father had reported to the landlord. A suggested masonry crack in the pantry wall was not evident to the Tribunal.
24. The tenant is billed separately for water usage.
25. Drainage is to a septic tank, for which the cost of emptying is met by the landlord.
26. Public transport is lacking.
27. No comparable evidence was relied upon. However, comments that the landlord's comparables were not similar to the subject property were made.

Submissions – Landlord

28. The landlords' submissions, excluding consideration of personal circumstances which are to be disregarded in setting a market rent, can be summarised as follows.
29. The landlord is unaware of any disrepair to the property and relies upon a ledger of repairs undertaken since April 2017 to support their assertion that the property is well maintained. A series of photographs of damp proofing works and repair to the roof were provided.
30. The bathroom and kitchen are both in excess of ten years of age but are in a fair condition.
31. The property is set in sizeable grounds within a sought after rural location, close to local facilities and within easy access to the M3 motorway.
32. In support of the proposed rent the landlord relies upon nine comparable letting properties with asking prices ranging from £1,300 - £1,750 per

month. Four of these properties are Elvetham Estate properties let by the landlord, of which no details were provided, whilst five are houses advertised on letting platforms for which a brief description and a photograph of the front elevation were submitted.

Determination

33. The Tribunal has carefully considered all the submissions before it.
34. 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.
35. The relationship between the parties is clearly not an easy one, as demonstrated at the inspection. The Chairman explained to both parties, individually, that statute precludes the Tribunal from accounting for the personal circumstances of either the landlord or the tenant.
36. 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 24 June 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.
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 on the effective date and in the condition that is considered usual for such a market letting.
38. The landlord relied upon nine comparable properties but despite four of these being Elvetham Estate properties they chose not to provide any useful information on each, citing data protection. Instead, the landlord analysed these properties on a price per m² basis. The Tribunal drew no assistance from such an approach as, without narrative detailing the accommodation, number of bedrooms, condition, facilities, provision of white goods, carpets and curtains, the analysis was of no value. The Tribunal would have been assisted by appropriately redacted details, particularly as Elvetham Estate properties are likely to be more comparable to the subject than town houses.
39. Leaving aside the Elvetham properties, the Tribunal was left with five further comparables provided by the landlord, with asking prices ranging from £1,300 - £1,750 per month. These properties offered modern two and three bedroom accommodation in built up areas. The tenant chose not to provide any comparable evidence.
40. Weighing the parties' comparable evidence against its own expert knowledge as a specialist Tribunal and having regard to the size of the third bedroom, ground floor bathroom, close proximity and noise disturbance of the M3, and limited public transport, the Tribunal

determined that the open market rent of the property in good tenable condition is £1,400.00 per month.

41. 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.
42. The Tribunal finds that whilst the property is well kept and neatly presented, the fixtures and fittings are reflective of the installation dates indicated and, as such, would require modernising to meet the standard expected by the open market. Such a letting would also anticipate provision of white goods, floor coverings and curtains.
43. In addition, the tenant is responsible for the internal decoration of the property. The Tribunal considers such a covenant a greater burden than the normal responsibility for an assured shorthold tenant to keep the landlord's decorations in good order.
44. The tenancy agreement also includes an insurance provision whereby the landlord's costs can be recharged to the tenant by way of additional rent.
45. Furthermore, the tenancy includes a provision whereby 8% of the costs of any works of alterations and improvements may, subject to provision, be recharged to the tenant. Neither the insurance or improvement provisions are covenants typical of a modern assured shorthold tenancy agreement. The Tribunal therefore considers both covenants warrant a downward rental adjustment.
46. In recognition of the factors set out in the preceding four paragraphs and disregarding the tenant's improvements the Tribunal finds that a deduction of 25% in the hypothetical rent is warranted.
47. The Tribunal is unable to take account of the penetrating dampness evident nor of the internal cracking as, by the tenant's admission, neither had been reported to the landlord. No adjustment is made for insect infestation as, at the time of inspection, no issue was evident, nor had any photographic evidence of such been included in the tenant's written submissions.
48. Accordingly, the Tribunal finds the adjusted open market rent to be £1,050 per month, equating to £3,150 per quarter.
49. 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 **£3,150.00 per quarter will take effect from 24 June 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.