



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

Case reference : **CHI/00HN/MNR/2024/0088**

Property : **Flat 34, Williams Court, 24-26 Poole Road, Bournemouth, Dorset, BH4 9DT**

Applicant/tenant : **Ms Roberta Burton**

Representative : **In person (written representations)**

Respondent : **Stonewater (5) Ltd**

Representative : **Holly Edwards, Assistant Director
Customer Experience, Stonewater
(written representations)**

Type of application : **Sections 13 and 14, Housing Act 1988**

Tribunal members : **Mr C Norman FRICS
(Valuer Chairman)
Mr S Hodges FRICS
Mr J Reichel BSc MRCIS**

Date of Decision : **28 June 2024**

Date of Reasons : **28 June 2024**

REASONS

Background

1. On 27 March 2024 (received on the same day), the tenant of the above property referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988 (“the Act”).
2. The landlord’s notice, which proposed a rent of £162.11 per week is dated 28 February 2024. The notice proposed a starting date for the new rent of 1 April 2024. The rent passing was stated as being £138.88 per week. These rents are inclusive of the service charge.
3. The tenancy is an assured periodic tenancy. From the tenancy agreement copy of which was provided with the application, the assured tenancy commenced on 22 December 2021.
4. On 1 May 2024, the Tribunal issued directions to the parties. The application was set down for a determination on the papers without a hearing or inspection, unless either party requested these, which neither did. The landlord was directed to complete a Rent Appeal Statement by 15 May 2024. The tenant was directed to do likewise by 29 May 2024. Both parties made Rent Appeal Statements.
5. On 5 June 2024, the Tribunal determined the rent at £187.32 per week, inclusive of service charges of £59.87 per week with effect from the same date.

Tenancy agreement

6. The Tribunal was supplied with a copy of a tenancy agreement. This included some small photographs of the property. Clauses 1.2 and 5 of the tenancy agreement provide that the tenant is liable for service charges, and also fuel and water charges.

The Property

7. The Tribunal has relied on the rent appeal statements. From those sources the Tribunal finds that the subject property is a 1-bedroom flat on the second floor of a purpose-built retirement home. It comprises a double bedroom, kitchen, living area and bathroom/WC. There are extensive communal facilities. There is gas central heating, and double glazing. The property was let with floor coverings to the kitchen and bathroom. Communal white goods are provided. The bathroom was fitted in 2013. The kitchen was fitted in 2006. The property is in a good location in Bournemouth and set in attractive grounds, with parking. The building appears to be approximately 30 years old.

The law

8. The law as to the Tribunal’s approach is given at section 14 of the Act which insofar as relevant is as follows:

(1) Where, under subsection (4)(a) of section 13 above, a tenant refers to a 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;
[...].

The landlord's Case

9. The landlord relied on an experts' report dated 13 May 2024 from Mr N K Freston FRICS of Besley Hill Chartered Surveyors, Rockhampton, who had carried out a desktop valuation. In his opinion, the market rent was £900 per month. This included normal service charge items but excluded heating, lighting telephone, TV licensing, council tax and contents insurance. He referred to 6 one-bedroom retirement flats within a 1-mile radius of BH4 based on a RightMove search. The range was £800-£1950 per month. Mr Freston stated that the higher rents relate to private sector providers and the lower rents to housing association owned properties.

The Tenant's Case

10. The tenant produced a detailed submission, with photographs, the salient points of which are as follows. The floor area from the EPC was 42 sq. m. The guest room [within the communal areas] was in poor condition. The lift had been out of order. In 2021 after contractors left there was debris in common parts outside the flat. The bathroom had unattractive pipework. There was some unfinished paintwork in the kitchen and some mould in that room. The kitchen was small, tired and floor cupboards would not close. The tenant had installed blinds. The tenant did not appear to challenge the landlords service charge calculation at £59.87 per week. In any event, challenge to the service charge is outside the scope of this reference. The internal finishes to the flat are poor. The tenant challenged the dates of installation of the kitchen and bathroom. The property had good transport links to Bournemouth Poole and Westbourne. It has good garden areas and very attractive common parts. Substantial investment by the landlord between 2013 and 2015 was to common parts.
11. Ms Burton referred to two comparables. Curtis Lodge BH1 was managed by BCP Council charging a social rent of £92.17 per week and a weekly service charge of £15.89, including water and sewerage. This

is a one-bedroom top floor retirement property with supported services and communal areas. The interior of the flat is in good condition. Based on the EPC the size is between 49 and 53 sq. m.

12. Alexandra Lodge is a one-bedroom flat in a private block of 30 flats in BH1 let at £650 per month. The interior condition is good. There is a separate garage.
13. The subject property should be valued on a social rent based at £108.06 per week (£468.26 per month)

Findings

14. The property is a one-bedroom flat in a purpose-built retirement complex build around 30 years ago. It is in a good attractive location with gardens and car parking. Extensive communal facilities are provided. Within the last 10 years significant improvements to the common parts have been made. The Tribunal is required to find the market rent based on the current terms of the tenancy. Those provide that service charges will be payable for communal services, amongst other matters. Therefore, the property cannot be compared with non-retirement accommodation.
15. The Tribunal does not find the tenant's comparables helpful for these reasons. Curtis Lodge is a council letting described as being let on a "social rent". That is not the same as market rent and is not therefore evidence of market rent. Further, the property is a significant distance away based in central Bournemouth. In relation to Alexandra Lodge, this too is situated in BH1 and furthermore is not a retirement complex. It is therefore not comparable to the subject property. In addition, the Tribunal has no information as to when the rent was set.
16. The Tribunal prefers the evidence and opinion provided by Mr Freston FRICS that the market rent is £900 per month. Mr Freston made clear that this excludes the provision of heating. As heating is provided by the landlord a tenant would expect to pay a greater rent to reflect this service. The heating element is £13.12 per week or £56.81 per month, giving an adjusted rent of £956.81 per month. After rounding, the starting point is therefore £955 per month. However, the Tribunal considers that this rent requires a downward adjustment as follows: lack of white goods within the flat 5%, condition of the kitchen, 5% and the lack of carpets and curtains, 5%. These therefore aggregate to 15% or £143.25 per month, giving £811.75 equivalent to £187.34 per week. The adjusted market rent is therefore £187.34 per week inclusive of service charges of £59.87 per week. The Tribunal does not consider that the condition of the common parts would affect the rent.

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17. Therefore the Tribunal determines that market rent under the Act is £187.34 per week, inclusive of service charges of £59.87 per week. The rent shall commence on 1 April 2024 being the start date specified in the landlord's notice. Notwithstanding the Tribunal's determination, the landlord is entitled to charge a lower rent from the tenant.

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.