



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

**Case reference** : **CAM/00MX/MNR/2023/0177**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **2 Dobbins Lane, Wendover, HP22  
6BP**

**Applicant (Tenant)** : **J Sullivan**

**Respondent (Landlord)** : **D Khatun**

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

**Tribunal members** : **Mr P Roberts FRICS CEnv**

**Date of Determination** : **2 May 2024**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper determination described above as **P:PAPERREMOTE**. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a market rent of £2,000 per month effective from 26 April 2024.**

## **Reasons**

### **Background**

1. The Landlord served a notice dated 22 November 2023 pursuant to section 13 (2) of the Housing Act 1988 which stated an increase in the passing rent from £1,400 per month to £3,000 per month with effect from 24 December 2023.
2. This rent is stated to be exclusive of Council Tax, Water Charges, and fixed service charges.
3. The Tenant made an application on 30 November 2023 to the Tribunal in reliance on section 13 (4) of the Housing Act 1988.
4. The Tribunal issued directions on 22 January 2024 inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.

### **The Property**

5. The Tribunal inspected the Property on 18 March 2024. The Landlord did not attend.
6. The Property comprises a detached house of brick and tile construction providing lounge, kitchen, dining room, bathroom and hallway at ground floor and four bedrooms, ensuite and family bathroom at first floor level. The Property also benefits from an integral garage and yards to front and rear.
7. A number of issues were noted during the inspection as listed below:
  - The Property requires full redecoration throughout.
  - There is no carpet on the stairs.
  - The rear patio door wont lock.
  - Central heating radiators are leaky and rusting.
  - The kitchen units have delaminated so the Tenant has painted them.

- The Kitchen floor tiles are cracked.
  - The freezer and dishwasher are broken. The washing machine is also broken so the Tenant has purchased their own.
  - Skirting boards are missing in the dining room.
  - The shower in the downstairs bathroom is broken and exposed. There is also a hole in the ceiling resulting from water leakage from upstairs bathroom. In addition, the WC is not fixed to the floor and the bath panels are broken.
  - The upstairs bath has dropped and the shower is broken. In addition, the WC is also broken and there is evidence of damage through water leakage. The plaster is crumbling and the skirting board is coming away from the wall.
  - The immersion tank leaks.
  - Some of the first-floor windows will not open such that there is potential fire escape hazard.
  - The ensuite shower doesn't work.
  - The Garage door doesn't open.
8. In summary, the Property has been neglected and repairs have not been carried out. It is now at the stage where a full redecoration and refurbishment including new kitchen and bathroom units together with new flooring and window/door repairs are required.

### **The Tenancy**

9. The Tenant took occupation pursuant to an Assured Shorthold Tenancy commencing 24 July 2018 for a term of 12 months and an initial rent of £1,850 per month payable on the 24<sup>th</sup> of each month.
10. Following the Tenant falling into arrears, the rent was reduced to £1,400 per month by agreement effective from 24<sup>th</sup> August 2021. The rent has remained at £1,400 per month since that date.
11. The Tribunal has only been provided with a copy of the front page of the original Tenancy and has therefore been required to make assumptions as to the terms thereof having regard to the statutory provisions.

### **The Law**

12. Section 5 (3) of the Act provides that the periodic tenancy arising on expiry of the Assured Shorthold Tenancy is one:

*“(a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;*

*(b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;*

*(c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;*

*(d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and*

*(e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy”*

13. Section 14 of the 1988 Act provides that the Tribunal is required to determine the rent at which the Property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy:

- *“having the same periods as those of the tenancy to which the notice relates;*
- *which begins at the beginning of the new period specified in the notice;*
- *the terms of which (other than relating to the amount of rent) are the same as those of the existing tenancy.”*

14. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:

- *“Any effect on the rent attributable to the granting of a tenancy to a sitting tenant;*
- *Any increase in the value of the dwelling-house attributable to a relevant improvement (as defined by section 14 (3) of the Act) otherwise than as an obligation;*
- *Any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.”*

15. Examples of a tenant’s failure to comply with the terms of the lease may include, for example, a lack of redecoration.

16. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:

- a. *“to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
- b. *to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and*
- c. *to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”*

17. Section 14 (7) of the 1988 Act states:

*“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, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.”*

### **Representations – The Tenant**

18. The Tenant’s Application Form set out the following comments:

- *“At my request on 20 April 2022 an Environmental Health Practitioner from Bucks Council assessed the property and noted 16 items of disrepair, these were communicated by the Council to Mrs Khatun as being her responsibility to repair but she again refused.*
- *Document “A” is the original tenancy agreement, document “B” is an updated rent contract dated 27 July 2022, Mrs Khatun agreed to lower the rent and not return to the matter.”*

19. No further representations were made.

### **Representations – The Landlord**

20. The Landlord provided an email to the Tribunal dated 28 December 2023 together with exhibits as follows.

21. A letter from Christopher Pallet dated 15<sup>th</sup> December 2023 advised that the rental value *“...is currently in the region of £3,200 per calendar month.”* However, the letter also advised that *“As we have been unable to access the property, the figures have been assumed from a drive by of the house...”*

22. Tim Russ & Company provided a letter dated 22 August 2023 in which they advised a rent value of £3,000 per month and referred to another property which was let in April 2023 at £3,000 per month. Whilst not stated, the Tribunal understands that this advice was provided without an internal inspection having been carried out.
23. Fine and Country advised on 10 October 2022 that *“Further to our discussion I understand the property is in good condition throughout and gated at the front. Without seeing the property, I would expect to advertise such a property at around £3,000 per month.”*
24. The Landlord referred to the current rent causing significant financial hardship and stated that the mortgage payments *“...are more than twice the rent received from the Tenant.”*

### **Determination**

25. The Tribunal has reviewed the Contract of Agreement 27 July 2021 and notes that it relates to the settlement of arrears and records the rent to be payable with effect from 26 August 2021.
26. This Agreement does not state that the rent of £1,400 per month would apply until such time that the Tenant vacated the Property and it does not prevent the Landlord from being able to exercise their statutory right to serve a section 13 Notice to trigger a review of the rent nor can it fetter the Tribunal’s ability to determine such matters.
27. The Tribunal is therefore able to proceed to determine this matter and considers that this Agreement is not relevant to the proceedings.
28. In accordance with sections 14 (2) and (3) of the Act, the Tribunal has disregarded the Tenant’s improvements/alterations. However, the Tribunal has taken into account the disrepair and lack of decoration that has arisen through a failure by the Landlord to comply with their contractual and statutory obligations.
29. In determining the market rent in respect of the Property, the Tribunal has regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent and the period that has passed since that rent was agreed or determined is not relevant.
30. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have any regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent. Similarly, the Tribunal is also unable to take into account the Tenant’s ability to pay the rent in assessing the amount to be paid or the Landlord’s need to achieve a certain income in order to, for example, cover their mortgage payments.

31. In addition, historic matters between the actual landlord and tenant are not relevant to the rent likely to be offered by a prospective tenant. The Tribunal can therefore only have regard to the Property as it exists on the relevant date of the proposed rent review having regard to the statutory assumptions.
32. As set out above, section 14 of the 1988 Act requires the Tribunal to determine the rent at which the Property might reasonably be expected to let with effect from the date specified for commencement of the new rent as set out in the section 13(2) Notice.
33. In this regard, the Tribunal is of the view that, if the Property was in full decoration and repair commensurate with market expectations and in keeping with comparable properties a rent of £2,900 per month would be achievable.
34. However, it is highly unlikely that the target market with the resources to pay this level of rent would be prepared to consider the Property in its current state regardless of its size and location such that they would not even offer a discounted rent. The Tribunal is therefore unable to place any weight on the Landlord's evidence as none of the agents appear to have been made aware of the true state of the Property.
35. There is therefore a limited number of prospective tenants who would be prepared to occupy the Property in its current condition. These would most likely be those who would normally be only able to bid for smaller properties but would be prepared to accept the disrepair and lack of working washing/toilet facilities in exchange for additional bedroom space.
36. In the absence of any direct comparable evidence of properties in a similar state of disrepair, the Tribunal has relied upon its own experience and knowledge of the market.
37. The Tribunal therefore determines the market rental of the Property as at the effective date to be **£2,000 pcm**.
38. The Tribunal appreciates that this may appear to be a relatively small increase compared to the initial rent of £1,850 per month in July 2018 against a background of rental growth. However, it would appear that when initially let, the Property was in good repair and decoration with working white goods but that little, if any, maintenance has been carried out since then. The deterioration of the property has therefore reduced the rental growth that might otherwise have been secured.
39. In this regard, it would be more appropriate to compare the initial rent of £1,850 per month to the rent that might have been achievable had the Property been kept in full repair and decoration of £2,900 per month on the basis of comparing "like with like". Conversely, the initial rent would have been much lower had the Property been in its current state at that point in time. The lack of maintenance has therefore directly impacted and limited rental growth.

40. As stated above, the previous rent payable is not relevant to the current determination of rent but hopefully this explanation is helpful in setting out the context of the Tribunal's determination.
41. The Tribunal has been made aware of the Tenant's financial position and considers that Section 14 (7) of the 1988 Act, as set out above, is engaged. The Tribunal therefore directs that the rent shall be increased from £1,400 per month to the lower of **£2,000 per month** or such other rent as the Landlord may decide, with effect from **26 April 2024**.
- 42. The rent payable may not exceed £2,000 per month. However, this does not prevent the Landlord from charging a lower rent.**

**Name:** Peter Roberts FRICS CEnv

**Date:** 4 April 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).