



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

Case Reference : **CAM/00KF/MNR/2024/0082
P:PAPERREMOTE**

Property : **305A Sutton Road Southend on Sea
SS2 5PF**

Applicant : **Dean Horsley**

Respondent : **Ngasunthari Koneswaran**

Type of Application : **Determination of the market rent
under Section 14 Housing Act 1988**

Tribunal : **Mrs E Flint FRICS**

**Date and venue of
Hearing** : **8 July 2024
Remote on the papers after an
inspection**

DECISION

The market rent is **£500** per month with effect from 17 April 2024.

© CROWN COPYRIGHT

Background

1. On 11 April 2024 the tenant referred to the Tribunal a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.
2. The landlord's notice, which was served on 14 March 2024, proposed a rent of £800 per month with effect from 17 April 2024 in place of the existing rent of £600 per month.
3. The tenant occupies under the terms of a tenancy for twelve months from 17 February 2022 at £600 per month.
4. Directions were issued by the tribunal on 8 May 2024.
5. Prior to the hearing both the landlord and the tenant sent submissions to the tribunal and the other party.

The Inspection

6. The flat is within a terrace of shops with flats above. The ground floor below the subject property is currently in use as a storeroom for a nearby convenience store within the parade. Externally the building is in only fair condition. There are areas of patched and loose render to the rear.
7. Access to the flat is via a communal lobby which also provides access to the ground floor rear flat and into the commercial premises. The glass in the front door is missing and has been replaced with hardboard thus reducing the natural light into the lobby. The consumer units and meters are located within the lobby area. The entrance door to the flat is above the bottom step of the staircase leading to the first floor and has a gap below which would compromise its purpose in case of a fire.
8. The accommodation comprises two rooms, kitchen and bathroom/wc. The landlord has very recently installed double glazing with an escape window in the rear bedroom. The landlord has also boxed in the gas fired boiler in the kitchen and installed an extractor above the cooker. The tenant stated that the hood blows instead of sucking in the air. There was black mould on the ceiling in the bay window in the living room.
9. The electric shower over the bath was not functioning.

The Evidence

10. The flat is on the first floor above commercial premises in a terrace built c1930. The accommodation comprises two rooms, kitchen and bathroom/wc. The ground floor is used as a store for a variety of goods including alcohol which could present a fire risk

11. The tenant in written submissions stated that the flat was difficult to heat, there was mould in the living room. He referred to 297A which had recently been refurbished, the rent from April 2024 was £650 per month. The accommodation was the same size as his own. He was of the opinion that a 10% increase would be fair if all the outstanding work had been completed.
12. The tenant was concerned that as the ground floor is used as a store for a variety of goods including alcohol it could present a fire risk. There had been no gas safety checks.
13. The council served an improvement notice on 6 December 2023. The following works remained outstanding: defective render above the bedroom window, insulation of the roof space, fire resistant lobby and replacement entrance door to flat, electrical works and at the time of writing replacement windows with compliant opening areas and an escape window.
14. Detek Fire and Security had inspected the building on 23 May 2024 and provided a report setting out a schedule of works running to three pages, all the items were said to be of high priority and should be completed within six months of the report. The works included removing the highly flammable polystyrene tiles from the ceiling in the entrance lobby, carry out necessary works to the electrical installation in the lobby and move consumer units which are obstructing the escape route in case of a fire, provide fire alarm system, emergency lighting and fire exit signs, replace the entrance door to the flat so that the floor level on each side of the door is level and check that all internal doors comply with fire safety standards.
15. The landlord's agent stated that the flat is convenient for the city centre. The landlord had spent £5,000 upgrading the flat. Details of a number of flats in the area let for between \$750 and £900 per month were provided. All the comparables were two bedroom flats, none were above commercial premises.

The law

16. In accordance with the terms of section 14 Housing Act 1988 I proceeded to determine the rent at which I considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
17. In so doing I, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act or any diminution in value due to the tenant not complying with the terms of the tenancy and also any items of disrepair which either the tenant had not reported to the landlord or had not allowed access for the landlord to carry out the necessary repairs.

Valuation

18. In coming to my decision, I relied on the landlord and tenant's comparable evidence and my own general knowledge of rents in the

vicinity. However, it is clear that the flat is not in the condition which is usual for an open market letting.

19. I determined that the open market rent of the property if modernised and let on the terms which usually apply to an Assured Shorthold letting would be £650 per month. I determined that taking into account the condition of the property that the open market rent of the subject flat was £500 per month to reflect its condition and lack of modernisation.

The decision

20. The rent of £500 per month is effective from 17 April 2024 in accordance with the landlord's notice.

Chairman: Evelyn Flint

Dated: 9 July 2024

ANNEX - RIGHTS OF APPEAL

- I. 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>
- II. 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.
- III. 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.
- IV. 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. Please note that if you are seeking permission to appeal against a decision made by the Tribunal under the Rent Act 1977, the Housing Act 1988 or the Local Government and Housing Act 1989, this can only be on a point of law.

Appendix Housing Act 1988

14 Determination of rent by rent assessment committee.

(1) Where, under subsection (4) (a) of section 13, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee 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 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 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 of the dwelling-house concerned or are payable under separate agreements....

(7) 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 ... 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.

Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)

Housing Act 1988 Section 14

Address of Premises

305A Sutton Road Southend on Sea
SS2 5PF

The Tribunal members were

Mrs E Flint FRICS

Landlord

Nagasunthari Koneswaran

Address

15 Redstock Road Southend on Sea SS2 5DJ

Tenant

Dean Horsley

1. The rent is: £ Per (excluding water rates and council tax but including any amounts in paras 3)

2. The date the decision takes effect is:

*3. The amount included for services /is not applicable Per

~~*4. Service charges are variable and are not included~~

5. Date assured tenancy commenced

6. Length of the term or rental period

7. Allocation of liability for repairs

8. Furniture provided by landlord or superior landlord

9. Description of premises

First floor flat above commercial premises comprising two rooms, kitchen, bathroom/wc, centrally heated.

Chairman

E Flint

Date of Decision

9 July 2024