



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

|                            |   |   |
|----------------------------|---|---|
| <b>Case reference</b>      | : | CHI/21UD/MNR/2024/0167  |
| <b>Property</b>            | : | Flat 4, Carmel Heights, 121 Bexhill Road, St Leonards on Sea, East Sussex, TN38 0AJ |
| <b>Applicant Tenant</b>    | : | Mr Jeremiah Edah and Miss Mary Opoku  |
| <b>Representative</b>      | : | None  |
| <b>Respondent Landlord</b> | : | Mrs June Bedding  |
| <b>Representative</b>      | : | C/O Oakfield PM Ltd   |
| <b>Type of application</b> | : | Determination of a Market Rent Sections 13 & 14 Housing Act 1988                    |
| <b>Tribunal member(s)</b>  | : | Mrs A Clist MRICS<br>Mrs J Coupe FRICS<br>Mr S Hodges FRICS                         |
| <b>Date of decision</b>    | : | 01 October 2024   |

---

**REASONS**

---

© CROWN COPYRIGHT

## Decision of the Tribunal

**On 3 September 2024 the Tribunal determined a Market Rent of £877.50 per month to take effect from 13 July 2024.**

## Background

1. By way of an application received by the Tribunal on 12 July 2024, the Applicant tenant of Flat 4, Carmel Heights, 121 Bexhill Road, St. Leonards-on-Sea, East Sussex, TN38 0AJ (“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 12 June 2024, proposed a new rent of £995.00 per month in lieu of a passing rent of £895.00 per month, to take effect from 13 July 2024.
3. On the 14 June 2024, the landlord subsequently offered to accept a reduced rent of £984.50 per month by letter to the tenant.
4. The tenant occupies the property under an Assured Shorthold Tenancy agreement with a commencement date of 13 June 2023; a copy was provided.
5. On 17 July 2024 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No objections were received.
6. The Directions required the landlord and tenant to submit their completed statements to the Tribunal by 31 July 2024 and 14 August 2024 respectively, with copies to be sent to the other party. Both parties complied.
7. Having reviewed the application, the Tribunal concluded that the matter was capable of being determined fairly, justly and efficiently on the papers, consistent with the overriding objective of the Tribunal.
8. These reasons address in **summary form** the key issues raised by the parties. They do not recite each and every point referred to in submissions. The Tribunal concentrates on those issues which, in its view, go to the heart of the application.

## Law

9. 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.
10. In so doing, and in accordance with the Act, the Tribunal ignores any increase in value attributable to tenant’s improvements and any decrease in value due to the tenant’s failure to comply with any terms of the tenancy.

## **The Property**

11. In accordance with current Tribunal policy, the Tribunal did not inspect the property but did view the exterior from publicly available online platforms.
12. The property is a self-contained first floor flat, situated within a three-storey block of flats. The building is of render-faced, painted elevations under a mansard roof with dormer projections. The property is located in an area of established residential and commercial properties, within close proximity to Bulverhythe Beach and with easy access of local facilities and public transport. Permit parking is available.
13. The accommodation comprises a reception room, kitchen, two bedrooms and bathroom.
14. The property has gas central heating and double glazing. The white goods belong to the tenant, with the exception of the cooker which is provided by the landlord. The curtains are the tenant's own.

## **Submissions – Tenant (summarised)**

15. The tenant states that the age of the kitchen and bathroom fittings are unknown but the kitchen is without a door, allowing in cold air and the bathroom is without an extractor fan.
16. The tenant states that the property's situation on a cross junction and adjacent to a railway line causes noise throughout the day and night. A photograph of a train visible from a window was provided. The tenant also seemingly provided a video annotated as 'Rail Line Video' which the Tribunal was unable to view.
17. The windows to the reception room and kitchen are in disrepair, providing poor thermal performance, increased noise pollution and increased heating costs.
18. The tenant states that the landlord had indicated that the windows would be replaced within three months of the commencement of the tenancy agreement. Upon complaint to the landlord's representative, contractors had visited the property to apparently provide a quotation to the landlord but no further action was taken.
19. The tenant provided evidence of disrepair to the windows in the form of three photographic images which were dated and with annotation.
20. The tenant made a further Statement regarding the malfunctioning of the previous boiler which has since been replaced by the landlord in January 2024. The tenant reports that a lack of heating, caused by the previous boiler malfunctioning, along with the faulty windows have affected the health of Miss Opoku.
21. By way of comparable evidence, the tenant referenced two local properties which are advertised as available to rent on a property platform:

- i. Homes4Sale is offering a 2-bedroom flat on Woodland Vale Road, St Leonards On Sea, for £895 per calendar month. Said to be of a similar layout in a similar, albeit smaller block. One bedroom is said to be smaller than at the subject property although the kitchen and bathroom are said to be more spacious. The tenant further states that the Woodland Vale Road flat is a 16-minute walk from the Warrior Square Railway Station, St Leonard on Sea and on a bus route, within a quiet residential area.
- ii. Alexander Estate is also offering a 2 bedroom flat at Kenilworth Road, St Leonards On Sea, East Sussex, for £875 per calendar month. The flat is said to be an 8 minute walk to the Warrior Square Railway Station, St Leonard on Sea and also on a bus route. The tenant states that the kitchen is equipped with a fridge, washing machine and cooker and is also in a quiet residential area.

### **Submissions – Landlord (summarised)**

22. The landlord's representative states that the kitchen and bathroom were in good condition at the commencement of the tenancy, that being 13 June 2023, although the age of both is unknown.
23. It is accepted that the kitchen and reception room windows require replacement.
24. The boiler is said to have been replaced on the 16 January 2024.
25. By way of comparable rental evidence, the landlord's representative provides the details of one property:
  - i). Angela Marden Estate Agents are marketing a flat in Church Road for £975pcm. The property is said to have a similar layout however the second bedroom is considerably smaller as well as having a smaller kitchen and living room.

### **Determination**

26. As a preliminary matter, before the Tribunal could consider the rental value of the property, it decided that it must first determine whether or not it has jurisdiction, or whether Clause 10.2 of the Tenancy Agreement provides a mechanism for the rent review which would effectively mean that the Tribunal did not have jurisdiction. The statutory position is that on the expiry of a shorthold tenancy, a statutory periodic tenancy arises. Where a statutory periodic tenancy arises at the end of a fixed term tenancy, a rent review clause no longer has effect (London Districts Property Management Ltd and others v Goolamy [2009] EWCH 1367 (Admin)).
27. As the initial term of the Tenancy Agreement expired on the 12 June 2024, the tenancy has reverted to a statutory monthly periodic tenancy and as such the rent review mechanism no longer has effect. The Tribunal therefore deems itself to have jurisdiction to determine a market rent.
28. The Tribunal assesses the rent for the property as at the date of the landlord's Notice and on the terms of the extant tenancy.

29. 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.
30. 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 today in the condition that is considered usual for such a market letting.
31. The Tribunal was assisted somewhat by two comparable properties provided by the tenant and one by the landlord. Although all properties were purported to be of a similar nature to the subject with some detail provided as to the accommodation and marketing agents, no house numbers, photographic evidence or confirmed rents achieved were provided. The evidence is therefore somewhat insufficient to make detailed comparisons, although evidence the general tone of rents in the locality.
32. The Tribunal therefore also drew upon its own expert knowledge as a specialist Tribunal and, in doing so, the Tribunal determined that a figure of £975.00 per month is reasonable.
33. Once that 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. In this instance the Tribunal determined that the subject property falls short of the standard required by the market. The property has two windows in disrepair, resulting in poor thermal performance, poor sound insulation, restricted visibility and increased heating costs to the tenant. The white goods, with the exception of the cooker, are provided by the tenant.
34. In reflection of such differences, the Tribunal makes a deduction of 10% from the hypothetical rent to arrive at an open market rent of £877.50 per month.
35. The Tribunal notes that the determined market rent is below that of the current rent. The latter of which was agreed on the understanding by the tenant that the window would be repaired.
36. The tenant made no submissions to the Tribunal in regard to delaying the effective date of the revised rent on grounds of hardship. Accordingly, the rent of **£877.50 will take effect from 13 July 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](mailto: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.