



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

Case reference : HAV/00HB/MNR/2024/0511

Property : 23 Stanton Road, Bristol, BS10 5SJ

Applicant Tenant : Angelo Atienza

Representative : None

Respondent Landlord : Carlos & Mercelita Berondo

Representative : Romans Lettings

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

Tribunal members : Regional Surveyor Coupe FRICS
Mr M Ayres FRICS

Date of inspection & Hearing : 30 September 2024 at the Civil & Family Justice Court, 2 Redcliffe St, Bristol, BS1 6GR

Date of reasons : 8 October 2024

REASONS

Decision of the Tribunal

On 8 October 2024 the Tribunal determined a Market Rent of £1,046.00 per month to take effect from 3 September 2024.

Background

1. By way of an application received by the Tribunal on 26 August 2024 the Applicant tenant of 23 Stanton Road, Bristol, BS10 5SJ (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 26 July 2024, proposed a new rent of £1,550.00 per month, to take effect from 3 September 2024. The passing rent being £1,250.00 per month.
3. The tenant and his family occupy the property under an assured shorthold tenancy commencing 3 May 2022. A copy of the tenancy agreement was provided.
4. On 30 August 2024 the Tribunal issued Directions advising the parties that the Tribunal intended inspecting the property on Monday 30 September 2024, following which an in-person hearing would be conducted.
5. The Directions required the landlord and tenant to submit their completed statements to the Tribunal by 11 September 2024 and 23 September 2024 respectively, with copies to be sent to the other party. The tenant submitted a statement of case to the Tribunal, copied to the landlord, on 23 September 2024. The landlords’ representative did not submit a statement of case but, instead, on 25 September 2024 sent an email to the Tribunal containing information and attachments. Contrary to Tribunal Directions, the landlord’s representative did not provide the tenant with a copy of such.
6. These reasons address in summary form the key issues raised by the parties. The reasons do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal’s view, are critical to this decision. In writing this decision the Chairman has regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.

Law

7. 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.

8. 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 & Findings

9. The inspection was undertaken at 10.30am on 30 September 2024 in the presence of the tenant and his wife, Mrs Atienza. Neither the landlord nor their representative attended.
10. The Tribunal found the following:
 - The property is a semi-detached house situated in an established residential area
 - Mains water was turned off at the stopcock
 - Water, when turned on, is leaking from a bath fitting and being collected in a large receptacle in the bath
 - Ground floor cloakroom and toilet were unfit for use
 - Evidence of surface mould
 - General wear and tear of kitchen fittings
 - Dated bathroom suite
 - Peeling paper and paintwork
 - Floor coverings beyond their useful life
 - Garage floor saturated
 - Garage doors exhibited timber decay
 - Detritus from the dismantled garden shed

The Property

11. The property is built of brick cavity construction with a pitched and tiled roof, and is situated in an area of similar age and style of properties convenient for local shops, amenities and public transport.
12. Accommodation comprises an entrance hall, reception room, kitchen, WC, three bedrooms, bathroom/WC. Windows are upvc double glazed. Heating is provided by a gas fired boiler to radiators. A cooker and some of the carpets are said to be provided by the landlord. The property has a front and the rear garden, and a lean-to garage. There is off road parking to the front.

The Hearing

13. The hearing was held at the Civil and Family Justice Centre, 2 Redcliffe Street, Bristol, BS1 6GR directly after the inspection. The tenant appeared in person, accompanied by his wife, Mrs Atienza. The landlord was represented by Mr Chapman in his capacity as Romans' branch manager.
14. The hearing was recorded and such stands as a record of events.
15. As a preliminary issue the Tribunal dealt with the landlord's failure to provide written submissions to the Tribunal in accordance with Tribunal Directions and to copy such to the tenant. Mr Chapman explained this was an oversight on his firm's part.

16. The Tribunal considered whether the tenant would be prejudiced by admitting the late submissions and decided that, as the content replicated and, in part expanded upon, the tenants' own submissions, and additionally provided clarification on one of the main points in dispute, that being the alleged cancellation of scheduled visits, that the tenant would not suffer any relevant prejudice were the submissions to be admitted and Mr Chapman cross examined on their content.
17. In accordance with Rule 6(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the Tribunal admitted the landlord's written submissions.

Submissions – Tenant

18. 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.
19. The tenant accepts that the open market value of the property, in good tenantable repair, is in the region of the proposed rent, that being £1,550 per month.
20. However, the tenant argues that the property is let in a condition far from good repair and, furthermore, that despite repeatedly advising the landlord and, since April 2024, Romans the newly appointed letting agent, very few remedial works had been undertaken. By way of example the tenant refers to the following outstanding issues, such list not intending to be exhaustive:
 - i. The bath tap leaks continuously and to such an extent that water must be collected in a large receptacle and regularly emptied. Mains water is therefore turned off at the stopcock and requires turning back on, and escaping water collected, each time the tenants require water for everyday household use.
 - ii. The downstairs cloakroom has sustained water damage from previous leaks in the bathroom directly above, now rendering the cloakroom and toilet unusable.
 - iii. Bathroom fittings require resealing; a shower curtain rail is broken; surface mould is evident.
 - iv. General wear and tear of kitchen and bathroom fittings.
 - v. Insect infestation
 - vi. The oven repeatedly malfunctions and is unreliable.
 - vii. Poor décor.
 - viii. The findings and recommendations of Acorn Preservation Ltd dated 9 April 2024, that being a report commissioned by the landlord into dampness within the property, have not been implemented.
 - ix. Garage floor regularly floods; timber garage doors are decaying.
 - x. The landlord has not provided statutory documentation including an Energy Performance Certificate or Landlords Electrical Safety Report.
21. The tenant refutes cancelling any scheduled visits with contractors, instead alleging that it was the landlord's contractor, known as Barry, who

repeatedly failed to keep to appointments. Furthermore, the tenants demonstrated flexibility, in so far as practicable, in providing access, and had indicated to the landlord their preference to be present when the contractor attended.

22. Mr Atienza stated that the poor condition of the property and lack of easy access to running water was having an adverse effect on the health and well-being of his family.
23. White goods, with the exception of the oven, and curtains are said to belong to the tenants. Carpets are provided by the landlord but are worn.
24. Mr Atienza refers to a three-bedroom semi-detached house in Downend advertised online as available to rent at an asking price of £1,500 per month. The property was the only suitable comparable he could find within a 3-mile radius.
25. The tenant explains that the family would suffer undue hardship if the proposed rent, being some 24% higher than the passing rent, was to be payable from the effective date contained within the s.13 Notice.

Submissions – Landlord

26. The landlords' submissions, excluding consideration of personal circumstances which are to be disregarded in setting a market rent, can be summarised as follows.
27. The landlord was represented by Mr Chapman of Romans Lettings who found himself in the unfortunate position of being invited to comment on a property that he had not visited nor was he the property manager for, (Mr Chapman had not joined the inspection earlier that morning), and, despite his firm having been copied into the tenant's submissions, Mr Chapman said that he had not had an opportunity to consider their content in advance of the hearing. The Tribunal were advised that the property manager, Mr Cracknell, with whom the tenants had communicated, was not in attendance at the hearing as he was based in Wokingham. Accordingly, Mr Chapman was unable to assist either the Tribunal or the tenant in response to many of our respective questions.
28. Mr Chapman explained that his firm was acting on client instructions, which themselves would have followed his firm's recommendation, that a S.13 Notice of rent increase be served in July 2024 with an effective date of 3 September 2024. Whilst acknowledging that the tenant had reported multiple items of disrepair prior to service of the S.13 Notice, his firm was confident that such works would be investigated and, where necessary, remedied prior to the effective date of rent increase. In oral submissions Mr Chapman accepted that this had not transpired and that significant remedial works remained outstanding.
29. Mr Chapman stated that the landlord was keen to undertake repairs and maintenance to the property and that, on 21 May 2024, his firm had instructed a contractor identified as 'Barry' to provide a quotation for a list of works and to advise on the necessity of others. Mr Chapman went on to

explain that, in Romans' opinion, since such date the tenants had cancelled scheduled appointments with Barry on five separate occasions. Furthermore, that voice messages left for the tenants by Mr Cracknell had not been returned, and that an offer for the contractor to enter the property while the tenants were out had been declined.

30. In response to Tribunal questioning, Mr Chapman identified the dates upon which he alleged that the tenants had cancelled the contractor as being 1 July 2024; 2 July 2024; 2 August 2024; 16 August 2024 and 23 August 2024.
31. Such evidence directly contradicted that of the tenant. In order to make findings of fact on the point further questions were asked of Mr Chapman, as a result of which Mr Chapman accepted that both of the dates in July concerned unanswered telephone calls made to the tenant by Mr Cracknell. Furthermore, the only evidence that the tenant had cancelled the appointment on the 2nd and 16th August 2024 was a note on Roman's internal system from Barry advising as such. The Tribunal was directed to an electronic message dated 9 August 2024 stating "*The appointment scheduled fo [sic] today has been re-arranged by the TT. It is now rescheduled for 16/08/24 @ 0800hrs...*" In regard to cancellation of the 5th appointment, that being the 23 August 2024, Mr Chapman accepted that rather than a scheduled appointment this was a matter whereby the tenant was unable to accommodate a proposed appointment but in response had offered an alternative date.
32. In response to questioning, Mr Chapman accepted that he had no knowledge of the report by Acorn Preservations Ltd, suggesting it was something within Mr Cracknell's remit.
33. Mr Chapman was asked as to whether he considered a lack of statutory documentation and compliance would adversely affect the rental value of a property. Whilst stating that his firm would decline to market a property without such, he accepted that, in a hypothetical world a lack of statutory compliance would negatively affect value.
34. Mr Chapman suggested that, in his opinion, a reduction of £100 in rent would sufficiently compensate a tenant for the inconvenience of having to turn the water on at the stopcock on each occasion that running water was required.
35. The landlord's submissions contained no comparable market evidence. At the hearing Mr Chapman sought to adduce fresh evidence including a Best Price Guide, compiled using a tool from an online property portal. Neither the Tribunal nor the tenant had been afforded an opportunity to consider this evidence in advance of the hearing. The Tribunal found it neither fair nor just of the landlord's representative to introduce further new evidence to the proceedings at such a late stage. Accordingly, the information was disallowed. Mr Chapman was however invited to explain how his firm had arrived at the figure of £1,550 per month. Having had the benefit of the earlier questions, Mr Chapman adjusted his position on the proposed rent to suggest that such figure was at the lower end of the rental value bracket. This shift in position contradicted Mr Chapman's earlier evidence.

Determination

36. The Tribunal has carefully considered all the submissions before it.
37. 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.
38. Statute precludes the Tribunal from accounting for the personal circumstances of either the landlord or the tenant.
39. The date at which the Tribunal assesses the rent is the effective date contained within the landlord's Notice. 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.
40. 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.
41. Initially, it was common ground between the parties that the open market rental value in good tenable condition was £1,550 per month. Mr Chapman only part-way through the hearing changed his position to suggest that such figure was at the lower end of the bracket for similar properties in the vicinity.
42. The tenant stated that he had been unable to identify any comparable properties within the immediate locality so had expanded his search to a 3-mile radius and, in doing so, had identified a three-bedroom semi-detached house in Grange Drive, Downend advertised as available to let at an asking price of £1,500 per month. The property was said to be in good condition. The Tribunal considered this information and whilst the advert doesn't provide evidence of the final letting price it is useful as an indication of the general tone of value. The Tribunal finds the comparable superior to the subject in terms of location, style and condition.
43. Weighing the evidence before us against the Tribunal's own expert knowledge as a specialist Tribunal, the Tribunal determined that the open market rent of the property in good tenable condition is £1,550.00 per month.
44. 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. In this regard the Tribunal found the property to fall considerably short of the standard required by the market.

45. The Tribunal finds that the property is in want of general maintenance, repair and refurbishment. The kitchen units and bathroom fittings are exhibiting signs of wear and tear, the ground floor toilet is out of use, and surface mould is evident in multiple rooms. In recognition of such the Tribunal reduces the rent by 5%.
46. The landlord's carpets are nearing the end of their useful life, whilst curtains and white goods (with the exception of the oven) belong to the tenant. The Tribunal allow a 2.5% reduction in rent, such deduction to include recognition of a lack of statutory compliance.
47. The point of most concern to the Tribunal was the lack of on-demand running water. The tenant reported the leaking bath tap to the landlord's representative on the 15 August 2024. On the date of the Tribunal's inspection, a month and a half later, the fault remained. The Tribunal do not agree with Mr Chapman's suggestion that this is such a minor inconvenience as to only warrant a deduction in rent of £100 per month. Such disrepair affects multiple aspects of everyday life from cooking, washing and hygiene, let alone the inconvenience of needing to empty the water receptacle each time mains water is turned on. In recognition of such, the Tribunal makes a deduction of 25% to the hypothetical rent.
48. Accordingly, the Tribunal finds the adjusted open market rent to be £1,046.25, rounded to £1,046.00 per month.
49. The Respondent relies on a defence of being unable to gain access to the property and that the tenant cancelled five scheduled appointments with a contractor. Furthermore, that the tenant refused the agent access using a spare key. The Tribunal has no hesitation in favouring the Applicant's evidence on these points and finds that there is no evidence that the tenant or his family cancelled any of the alleged appointments. Two such appointments were found to be unanswered phone calls, another alleged appointment concerned a proposed date and, in regard to the remaining two dates in August, the Tribunal finds on the evidence before it, including the oral submissions of the parties at the hearing, that it was more likely that the contractor had either failed to attend or had cancelled the visit.
50. The Tribunal found the Applicant to be a credible witness who gave balanced and fair submissions throughout the hearing.
51. The rent of **£1,046.00 per month will take effect from 3 September 2024.**

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.