



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

Case reference : **CHI/00HN/MNR/2024/0150**

Property : **Flat 508 Berry Court, St Peters Road,
Bournemouth, Dorset, BH1 2LG**

Applicant Tenant : **Victoria Kostromin**

Representative : **In Person**

Respondent Landlord : **Abri Group Limited**

Representative : **In Person**

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

Tribunal member(s) : **Mr R Waterhouse FRICS (Chair),
Mr M J F Donaldson FRICS ,
Mr M Woodrow MRICS**

Date of determination : **19 August 2024**

Date of reasons : **6 September 2024**

REASONS

Decision of the Tribunal

On **19 August 2024** the Tribunal determined a Market Rent of **£1285.00 per month** to take effect from **1 July 2024** and issued its decision in the form of summary reasons. It should be noted that the amount determined represents the market rent determined under section 13, the Landlord may choose to charge less.

Background

1. By way of an application received by the Tribunal dated **14 June 2024**, the Applicant Tenant of Flat 508 Berry Court, St Peters Road, Bournemouth, Dorset, BH1 2LG (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 **24 May 2024** proposed a new rent of **£1285.00 per month** to take effect on **1 July 2024** in lieu of a passing rent of **£1150.00 per month**.
3. The property was let to the Tenant by way of an assured shorthold tenancy from **11 May 2022** for 6 months. Thereafter the tenancy carried on as a statutory monthly periodic tenancy.
4. On **16 July 2024**, the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on the papers unless either party objected, in writing, within 7 days. In accord with current Tribunal policy the parties were advised that no inspection would be undertaken. No objections were received to determination on papers
5. The Directions required the Landlord and Tenant to submit their completed statements to the Tribunal by **30 July 2024** and **13 August 2024** respectively, with copies to be sent to the other party. Both parties complied.

Law

6. 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.

7. 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 Property

8. The Tribunal did not inspect the property. According to the Reply Forms submitted, the property is a 2-bedroom flat, with an open-plan living room/kitchen, a bathroom with w.c. and en-suite shower room with w.c... The property is in a purpose-built block completed in 2018, on the fifth floor. The Landlord's note the property has a private balcony and is a "Type 15 Flat" (see the plans attached in the representations) with a stated floor area of 714 sq ft.
9. The property benefits from central heating, double glazing, and carpets and curtains supplied by the Landlord. Additionally, the property has an "integrated fridge freezer, electric cooker, dishwasher, hob and extractor fan, separated freestanding washer dryer machine in double spaced utility cupboard. There is off-street parking and permit parking and access to communal gardens. Internet and satellite ports are fitted.
10. Shops, local amenities and public transport services are available in the area.

Submission – Tenants

11. The inventory showed extensive photographs of the property as let in May 2022.
12. The Tenant submitted a complete Reply Form dated 8 August 2024.
13. The Form noted the accommodation, concern was raised over the privacy of the balcony with the assertion it was overlooked and in shade from a neighbouring building. Concern is expressed from the alleged behavior of the users of the nearby language school from which noise and BBQ smoke comes.
14. In respect of the double glazing there is concern that with high winds these units become noisy and rattle.
15. The Reply Form confirms car parking space, but notes that it is not secure.
16. In relation to building security there is concern noted that the CCTV is not monitored, nor was the electronic key fob which gives access a sufficient level of security.
17. Under the section marked improvements, the Tenant noted that the building had needed to be re-clad, and that there was a Housing Ombudsman's report from last year- the details of which are not known.
18. The Tenant expressed concern regarding external matters such as rodents, removal of apple trees and the creation of a BBQ area which has yet to be installed.

19. In terms of the rental levels the Tenant in page 9 of the Reply Form notes general rental trends. The Tenant provides a critique of the 54 properties cited in the Landlords Rightmove search.
20. On page 14 of the Reply Form, specific asking rents from the block were cited, including Flat 506 which purports to have 733 sq ft and was being advertised at £1230.00 per month. The date of this was not noted.
21. On Page 12 the Tenant offers commentary on a number of the comparables cited by the Landlord. Noting various superior features offered with some of the properties including garage, secure parking, private Landlords and sea views.
22. Finally, concerns are expressed over complaint handling by the Landlord and the level of crime within the Bournemouth area.

Submissions- Landlord

23. The Landlord submitted a completed Reply Form identifying the accommodation. Additionally, the Landlord submitted a Rightmove search containing 54 items.

The Determination

24. 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 for which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the passing rent. In addition, the legislation makes it clear that the Tribunal is unable to account for the personal circumstances of either the Landlord or the Tenant. So, the status of the Landlord being “private” or not is not material.
25. The date the Tribunal assesses the rent is the effective date in the Landlord’s Notice, which is the **1 July 2024**. The Tribunal disregards any improvements made by the Tenants but considers the impact on rental value of disrepair, due to the Tenant's failure to comply with the tenancy terms or the Landlord's failure to repair.
26. 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.
27. The Tenant cites various lettings or asking rents in the building:
Flat 205 Berry Court asking £1050pcm at 2nd November [assumed 2023];
Flat 202 Berry Court asking £1050 pcm at 22nd February [assumed 2024];
Flat 302 Berry Court asking £1050 pcm at 2nd November [assumed 2023];
Flat 703 Berry Court asking £1300 pcm at 22nd February [assumed 2024]
same area but two floors higher;
Flat 506 Berry Court asking £1230 and is 733 sq feet.[assumed asking at time of Reply Form 8 August 2024].

28. The challenge for the Tribunal with the information cited by the Tenant is that it is not known if these asking rents were achieved or exceeded or indeed let.
29. The nearest in nature of the comparable is Flat 703 which is also a “Type 15” flat the same as the subject property for which the Tenant says the Landlord was asking £1300.00 in February 2024. The material date for the determination is the 1 July 2024.
30. It is appreciated that the comparable is two floors higher, but also it is 4 months earlier than the material date for this determination.
- 31. The Tribunal weighed the parties’ evidence against its own expert knowledge as a specialist Tribunal and, having regard to the nature, specification and size of the subject property, determined **£1285.00 per month.****
32. There were extensive submissions on the condition or quality of the flat. The Tribunal considers these to be either common issues within the area, eg crime levels which are reflected within the other comparables or that the specific issues are also present within those comparables and so no further deduction is warranted.
33. The Tribunal finds adjustments are not evidenced and the rent determined is **£1285.00 per month.**

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 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 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.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).