



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

Case reference : **HAV/21UC/MNR/2024/0628**

Property : **102B Tideswell Road, Eastbourne, East
Sussex, BN21 3RT**

Applicant (Tenant) : **Mr Stephen Falzon**

Representative : **None**

**Respondent
(Landlord)** : **Mr David Beadle**

Representative : **None**

Type of application : **Section 13(4) Housing Act 1988**

Tribunal members : **Mr D Jagger MRICS
Mr N Robinson FRICS**

Venue : **Paper determination with Inspection**

Date of decision : **10 January 2025**

DECISION

Decision of the tribunal

- (1) The Tribunal determines that the rent that the property in its current condition as at the 5 November 2024 might reasonably be expected to achieve in the open market under an assured periodic tenancy is **£950 per month**

Background

1. The tenant has lived in the property as assured periodic tenant since 6 May 2020 subject to an extended tenancy agreement dated 5 November 2020 for a further term of 18 months.
2. On the 9 September 2024 the landlord served a notice pursuant to section 13(2) of the Housing Act 1988 seeking to increase the rent from £750 per month, being the rental figure in the original agreement to £1,100 per month, being an increase of £350 effective from 5 November 2024. The notice contained a minor typing error. The notice was accepted by the Tribunal as valid. The tenant does not deny receipt of the notice and there is no prejudice to the tenant.
3. By an application dated 1 November 2024, the tenant referred that Notice to the Tribunal for a determination of the market rent.
4. The Tribunal issued Directions on the 8 November 2024 setting out the conduct of the matter.
5. On the 6 January 2025 the Tribunal received a request from the tenant to postpone the inspection for 7-10 days. This request was made due to the fact that the tenant's son was attending an operation on the 9 January and he will need to recuperate at home. This matter was considered by the Tribunal and conditionally refused as no evidence was provided.
6. On the 7 January 2025 the Tribunal received a further communication from the tenant. The email confirmed the tenant was not prepared to allow an internal inspection of the property by the Tribunal and the landlord as "he could not risk his son's health and wellbeing" The tenant then went on to say "If this means the Tribunal makes a decision without a visit then so be it"
7. The Tribunal has considered this matter carefully and under the circumstances considered the matter suitable for a determination on the papers and an external inspection. The papers included various photographs and a floor plan which showed the condition of the fittings and the internal layout. The parties did not disagree with this arrangement and in fact attended the external inspection. (See below)

8. Based on the evidence before the Tribunal it is evident that the parties have had a turbulent history, and it could be said that communications have broken down.

The Evidence

9. The Tribunal has before it a bundle of evidence which includes a background to the case and the Directions. The Landlord and the Tenant each completed Rent Appeal Statements which included photographs of the property and floor plan. The Landlord submitted a generic schedule of the addresses of 16 two-bedroom flats in the area ranging from £1050 per month through to £1,595 per month. The average of this schedule is £1,225 per month. The Tenant did not produce any comparable evidence. The landlord's evidence merely provides the road for the property. There is no information regarding the precise address, floor area, fittings, purpose built or converted flats and location. The Tribunal, therefore placed limited weight on such evidence.
10. The tenant stated that the kitchen and bathroom fittings are dated, being some 11 years old. The central heating and hot water system is very noisy and some of the double-glazed seals are defective resulting in misting between the panes of glass. The tenant provided white goods with the exception of the oven/hob. The tenant also provided curtains.

Inspection

11. The Tribunal inspected the property on the 10 January 2025 in the presence of the tenant, Mr Falzon. The landlord was represented by Mr Christopher Beadle and Ann Thomas. The property is a converted first floor flat which forms part of a two storey Victorian building with a "flying freehold" over an arched private access road. This provides the entrance to a vacant single storey commercial premises which we understand is subject to a planning application. The property is located in an established road close to amenities, sea front and railway station. The building has rendered elevations under a pitched and slate covered roof. Access is provided a separate doorway in the private road.
12. The accommodation comprises: 2 bedrooms, living room, kitchen and bathroom. There is gas central heating and double-glazed windows. It is stated carpets, and an oven were provided by the Landlord. The landlord undertook significant refurbishment works to the flat in 2013/2014 which includes replacement kitchen and bathroom fittings. These are obviously some 11 years now as stated above.

The Law

13. The rules governing a determination are set out in section 14 of the Housing Act 1988. In particular, the Tribunal is to determine the rent at

which the property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy, subject to disregards in relation to the nature of the tenancy (i.e. it being granted to a “sitting tenant”) and any increase or reduction in the value due to the tenant’s improvements or failure to comply with the terms of the tenancy. In the absence of any evidence to the contrary, the Tribunal has proceeded on the basis that the landlord is responsible for repairs to the structure, exterior and any installations pursuant to section 11 of the Landlord and Tenant Act 1985 and the tenant for interior decoration.

The Valuation

14. Having carefully considered all the evidence from the landlord and the tenant the Tribunal considers that an achievable rent for the property in a good marketable condition with reasonably modern kitchen and bathroom fittings, modern services with carpets curtains and white goods provided by the Landlord would be **£1,000** per month. This figure is based upon the comparable evidence provided by the landlord and the Tribunal’s professional judgement and experience of rental properties in the Eastbourne area.
15. The Tribunal has considered carefully the party’s submissions and using its own expertise, we consider a deduction of **£50** per month should be applied to take into account no white goods other than an oven,/hob and curtains provided by the tenant, The Tribunal considers there is insufficient evidence to consider the supposed noise emanating heating system. This reduces the rental figure to **£950** per month. It should be noted that this figure cannot be a simple arithmetical calculation and is not based on capital costs but is the Tribunal’s estimate of the amount by which the rent would need to be reduced to attract a tenant.
16. The average rent for rental properties in the Eastbourne area have increased every quarter since the end of 2020, according to the online property portal Rightmove. The rent increases are due to the restricted supply of properties coming to the market to meet demand and the number of homes for rent is 46 per cent below 2020 levels. This puts this decision in context with the current rental market.
17. The Tribunal has been provided with a copy of the tenancy agreement which incorporates the usual repair obligations.
18. The Tribunal received no evidence of hardship from the tenant and, therefore, the rent determined by the Tribunal is to take effect from **5 November 2024**, being the date set out in the landlord’s notice.

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 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>

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. 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.

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