



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

Case reference : **HAV/21UG/MNR/2024/0632**

Property : **4 Felonfield Cottages, Marley Lane,
Battle, East Sussex TN33 0RE**

Applicant (Tenant) : **Mr & Mrs Don & Clair Penney**

Representative : **SO Legal**

Respondent : **Mrs Ann Hone**

Representative : **Batcheller Monkhouse**

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

Tribunal members : **Mr Duncan Jagger MRICS
Mr Nigel Robinson FRICS**

Venue : **Paper determination with Inspection**

Date of decision : **10 January 2025**

DECISION

Decision of the tribunal

- (1) Having heard evidence and submissions from the parties and considered all the documentation provided The Tribunal determines that the rent that the property in its current condition as at 12 November 2024 might reasonably be expected to achieve under an assured tenancy is **£540 per month**

Background

1. The tenants have lived in the property as assured periodic tenant since the 12 March 1993 under an “Agreement for letting a house furnished, NOT SUITABLE FOR SHORTHOLD TENANCY”
2. The accommodation comprises three bedrooms, living room, kitchen/dining room, bathroom, rear porch.
3. On 9 October 2024 the landlord served a notice pursuant to section 13(2) of the Housing Act 1988 seeking to increase the rent from £150 per month to £1,200 per month effective from 12 November 2024.
4. By an application dated 10 November 2024, the tenants referred that notice to the Tribunal for a determination of the market rent. The Tribunal issued Directions for the conduct of the matter on 27 November 2024.

The Evidence

5. The detailed bundle of evidence includes a background to the case, the application, the tenancy agreement, two completed Rent Appeal Statements with comparable evidence, and helpful photographs.

The Inspection

6. The Tribunal inspected the property on the morning of the 10 January 2024 in the presence of Mr and Mrs Penney the tenants. Charlotte Pearson-Wood from Batcheller Monkhouse also attended the property to carry out a joint inspection.
7. The property is a Victorian end of terrace former farm workers cottage with brick elevations under a pitched and tiled roof and it is approached via an unmade shared drive and there is a hard standing for 2 allocated parking spaces. There is a good size enclosed rear garden with brick outbuilding and fruit trees. The property is located in an elevated position and lies in an Area of Outstanding Natural Beauty (ANOB) and is situated in a rural area adjacent to Petley Wood. The A21 is in close vicinity and Battle town centre lies approximately two miles distance.

8. The property has an Energy Performance Rating of E. There are various double-glazed windows installed by the landlord and internally, the kitchen and bathroom fittings are some 20 years old. Central heating is provided by an oil boiler to radiators. The photographic evidence and survey report provided in the bundle of tenant's evidence amplified the condition of the property. Each of these matters is considered in more fully below.

The Tenants case

9. The tenants state that when they moved into the property some 31 years ago, it was in a very basic condition and "*over the years was made into a functioning dwelling by the tenants*". The tenants have produced a comprehensive list of repairs and improvements undertaken by them to the property. The Tribunal has considered all of these matters which include: replacement of former electric storage heaters, installation of the oil central heating system (boiler and parts provided by landlord). Replacement kitchen and sanitary fittings, replacement electrical consumer unit, and general repairs internally and externally. There is evidence of penetrating damp to the internal walls and chimney breasts via the brick chimney stacks which require investigation to provide a watertight barrier. The tenants state the deteriorating fabric of the building is confirmed in a recent Survey Report undertaken on their behalf, when they were considering purchasing the property. The tenants claim that during the term of the tenancy it is themselves that have preserved the building and without their maintenance and improvements over the years the property would not be habitable.

The Landlords case

10. The landlord states the property was a functional dwelling in reasonable condition with a fully operational kitchen and bathroom at the start of the tenancy. The proposed rental figure of £1,200 for the property is backed up by a schedule of 18 properties together with agents details which range from £1,200 per month through to £1,800. The landlord has not disputed the significant schedule of repairs and maintenance undertaken by the tenants and more importantly has made no adjustment in order to take into account these works and the current condition of the fabric of the building.

The Law

11. 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, partial exterior and any installations pursuant to section 11 of the Landlord and Tenant Act 1985 and the tenant for interior decoration and rainwater fittings.

The Valuation

16. Having carefully considered all of the evidence and using its knowledge and experience the Tribunal considers that the rent that would be achieved in good condition with refurbished kitchen and bathroom fittings, external maintenance, internal renovation, modern services, and carpets, curtains and white goods supplied by the landlord would be **£1,200** per month. The Tribunal did its very best to analyze the comparable evidence provided by the Landlord. The properties submitted were of varying types within a wide geographical radius. This is a relatively individual property in terms of location. Therefore, the Tribunal had to make certain assumptions regarding specification, location, floor area, house type, actual achieved rent value and any market movement compared with the date of valuation.
17. That however is the rent that would be achieved if the property was let in good condition with all modern amenities. The Tribunal must disregard any increase in rental value attributable to the tenant's improvements, unless they are carried out under an obligation to the landlord. The Tribunal has been provided with a copy of the tenancy agreement, which incorporates the usual repair obligations. However, the Tribunal is aware there is a potential dispute regarding the payment for clearance of the septic tank.
18. Based upon the evidence provided to the Tribunal we consider that that the rent should be reduced by **£660 (55%)** to reflect the condition of the property at the commencement of the tenancy, the tenants improvements and a lack of white goods and carpets provided by the landlord. Our deduction reduces the rent to a figure of **£540** 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.
19. The Tribunal received no evidence of hardship from the Tenant and, therefore, the rent determined by the tribunal is to take effect from **12 November 2024**.

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).