



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

Case Reference	:	CHI/18UH/MNR/2023/0216
Property	:	39 Firbank Road Dawlish Devon EX7 0NW
Applicant Tenant	:	Mr S Eddy and Ms A Chester
Representative	:	None
Respondent Landlord	:	Ms M Tucker
Representative	:	None
Type of Application	:	Determination of a Market Rent sections 13 & 14 of the Housing Act 1988
Tribunal Members	:	Mr I R Perry FRICS Ms C D Barton MRICS Mr M C Woodrow MRICS
Date of Inspection	:	None. Paper determination
Date of Decision	:	3rd November 2023

DECISION

Summary of Decision

1. On 3rd November 2023 the Tribunal determined a market rent of £750 per month to take effect from 11th September 2023.

Background

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 9th August 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £750 per month in place of the existing rent of £675 per month to take effect from 11th September 2023.
4. The notice complied with the legal requirements.
5. On 4th September 2023 the Tribunal received an application from the Tenants under Section 13(4) (a) of the Housing Act 1988.
6. The Tribunal does not consider it necessary and proportionate in cases of this nature to undertake inspections or hold Tribunal hearings unless either are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
7. The Tribunal issued directions on 20th September 2023 informing the parties that, unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
8. Both parties submitted papers by the specified dates. The papers were also copied to the other party.
9. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 3rd November 2023 based on the written representations received.

The Property

10. From the information given in the papers and available on the internet, the property comprises a semi-detached Bungalow in a residential area on the northern side of Dawlish, about 1 mile from the centre of the town.
11. The accommodation includes a Porch, Living Room, Kitchen, 2 Bedrooms and a Conservatory. There are gardens front and rear, a garden shed, car port and off-road parking. The rooms are described as small and the Energy Performance Certificate states that the property is 45 square metres.

12. Windows are double glazed, and the property has gas-fired central heating. The Energy Performance Certificate states that the property is timber framed and it is rated 'D'.

Submissions

13. The initial tenancy began in July 2015 and a new agreement was signed with effect from 11th July 2018 at the present rent of £675 per month.
14. The Landlord states that no white goods are provided although correspondence suggests that a cooker is included. The Conservatory was renewed with a 'like for like replacement in 2019 and the soffits and fascias replaced in March 2023. The Landlord also states that the Kitchen was replaced in 2018 and that she has attempted to install further insulation to try and combat condensation problems.
15. The Landlord provides details of properties to rent in the area at figures ranging from £650 per month to £900 per month.
16. The Tenants state that the new Conservatory was a like for like replacement, confirms that the soffits and gutters have been replaced and states that a bathroom pipe has "rotted". The Tenants further state that fences have fallen down, that the property is affected by damp and mould, disputes the age of the Kitchen and says that the second bedroom cannot be used, as a window needs to be open for ventilation.
17. The Tenants provided the Tribunal with an inventory from when they first took occupation which generally describes the property as being in reasonable order, subject to some minor cleaning issues.
18. The Tenants had been in correspondence with the Local Authority who had issued a Housing Health and Safety Rating Assessment in respect of mould and excess cold within the property.
19. The Landlord had endeavoured to install additional insulation in the roof void but it had not been possible to arrange a time convenient to the Tenants. On 11th October 2023 the Tenants gave notice to leave the property on 11th November 2023. The Local Authority stated that they expected the work to be done before the property is relet.
20. The Tenants also provided photographs of the property, which showed small areas of mould, and details of other properties to let in the general area at rents ranging from £650 to £825 per month.

The Law

S14 Determination of Rent by First-tier Tribunal

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall

determine the rent at which, subject to subsections (2) and (4) below, the Tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-

- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
 - (b) which begins at the beginning of the new period specified in the notice;
 - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
 - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded-
- (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;
 - (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-
 - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
 - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
 - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.
- (3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates, or the following conditions are satisfied, namely-
- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
 - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and
 - (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.

- (4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

Consideration and Valuation

21. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only with no oral hearing. Having read and considered the papers it decided that it could do so.
22. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy. The personal circumstances of the Parties are not relevant to this issue.
23. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Dawlish and surrounding villages the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £800 per month.
24. This rent needs to be adjusted to reflect the fact that the property is not let on the same basis as a normal open market letting. The Tribunal decided to deduct £20 per month as only a cooker was provided and a further £30 per month to reflect internal damp/mould issues.
25. The Tenants made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenants undue hardship.

Determination

26. The Tribunal therefore decided that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £750 per month.
27. The Tribunal directed that the new rent of £750 per month should take effect from 11th September 2023, this being the date specified in the 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 to the First-tier Tribunal at the Regional office which has been dealing with the case. Where

possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.

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.