



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

**Case Reference** : **CHI/29UL/MNR/2021/0020**

**Property** : **Flat 3  
52 Earls Avenue  
Folkestone  
Kent  
CT20 2HB**

**Landlord** : **Mr P Tetteh**

**Representative** : **Countrywide Residential Lettings  
(Agent – Embassy Management)**

**Tenant** : **Mrs M Smith**

**Representative** : **None**

**Type of Application** : **Determination of a Market Rent  
sections 13 & 14 of the Housing Act  
1988**

**Tribunal Members** : **Mr I R Perry BSc FRICS  
Mr M Ayres FRICS  
Mr S Hodges FRICS**

**Date of Inspection** : **None. Dealt with on the papers**

**Date of Decision** : **22<sup>nd</sup> April 2021**

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**DECISION**

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## **Summary of Decision**

1. On 22<sup>nd</sup> April 2021 the Tribunal determined a market rent of £650 per month to take effect from 21st March 2021.

## **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 15<sup>th</sup> February 2021 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £650 per month in place of the stated existing rent of £580 per month to take effect from 21<sup>st</sup> March 2021. The notice complied with the legal requirements.
4. On 25<sup>th</sup> March 2021 the Tenant applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and Tribunal hearings in person until further notice.
6. The Tribunal issued directions on 17<sup>th</sup> March 2021 informing the parties that the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
7. Both parties submitted papers which were copied to each other.

## **The property**

8. From the information given in the papers the property comprises a first floor flat with accommodation including a Living Room with Kitchen off, two Bedrooms and a Bathroom with WC. There is shared use of a garden and the accommodation has the benefit of central heating.
9. The tenancy commenced nearly seven years ago on 21<sup>st</sup> May 2014 at an initial rent of £580 per month. The original lease agreement states the Landlord is responsible for the upkeep of the common areas.
10. The property is situated close to the centre of Folkestone, convenient for most amenities.

## **Submissions**

11. The Tenant provided the Tribunal with a number of photographs which showed the general condition of the property and drew the Tribunal's attention to mould growth on the Bathroom walls, possibly caused by an inadequate or broken extractor fan, and further mould in a Bedroom. In

addition the Tenant stated that many of the windows cannot be opened, the Hall is not regularly cleaned and that the outside front door cannot be locked and is therefore insecure.

12. The Tenant stated that the existing rent is £600, not the £580 stated in the s13 Notice.
13. The Landlord's Agent provided the Tribunal with evidence of the letting of comparable properties in the area and particularly the recent lettings of flats 1,2 and 4 in the same building which had achieved rents of £700 per month, £675 per month and £675 per month respectively.

## **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**

- 14. 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.
- 15. 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 Tenant are not relevant to this issue which the Tribunal must disregard.
- 16. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Folkestone 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 £700 per month.
- 17. However the property is not in a condition that would command such a rent. The Tribunal was concerned that not all windows can be opened and the main entrance door cannot be locked. There is mould growth in at least two rooms. Curtains are not provided by the Landlord and the common areas are said to be tired and neglected.

18. Using its experience the Tribunal decided that the following adjustments should be made:

Inoperative windows and front door	£25
General decorative order/mould growth	£25
<b>TOTAL</b>	<b>£50</b>

19. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

### **Determination**

20. 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 £650 per month.
21. The Tribunal directed that the new rent of £650 per month should take effect from 21<sup>st</sup> March 2021 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](mailto: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.