



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

Case Reference : **CHI/00HE/MNR/2021/0117**

Property : **Bramble Barn
St. John
Torpoint
Cornwall
PL11 3AW**

Landlord : **Sowena Taverns Ltd**

Representative : **Miller Countrywide Lettings**

Tenant : **Miss J Murfin**

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
Judge Tildesley OBE
Mr S J Hodges FRICS**

Date of Inspection : **None. Paper determination**

Date of Decision : **22nd December 2021**

DECISION

Summary of Decision

1. On 22nd December 2021 the Tribunal determined a market rent of £600 per month to take effect from 15th October 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 1st September 2021 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £800 per month in place of the existing rent of £600 per month to take effect from 15th October 2021. The notice complied with the legal requirements.
4. On 11th October 2021 the Tribunal received an application from the Tenant under Section 13(4) (a) of the Housing Act 1988. This application did not include a copy of the original notice from the Landlord.
5. Following the issue of a notice that the Tribunal was 'minded to strike out' the application, the Tenant provided a copy of the original notice which had been served by the Landlord.
6. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and Tribunal hearings in person until further notice.
7. The Tribunal issued directions on 17th November 2021 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. On 3rd December 2021 the Tenant submitted papers by the specified dates very clearly setting out her case objecting to the rent increase. Neither the Landlord nor his Agent made any submission.
9. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 22nd December 2021 based on the written representations received.

The Property

10. From the information given in the papers and available on the internet the property is a detached house comprising a Living Room, Kitchen, two Bedrooms and a Bathroom. It is described as having an area of forty-two square metres and an EPC rating of 42. The property has a garden and off-street parking.
11. The property is situated next to a public house within a small village about five miles west of Plymouth, on the west side of the River Tamar.

12. There is a small honesty shop at the Pub. The nearest Bus Stop is 1.1 miles away and access to the village is via narrow lanes. Heating is provided by night-store heaters, there is no double glazing.

Submissions

13. The initial tenancy began on 15th February 2019.
14. The Tenant states that there are no double-glazed windows, the night store heaters are old and inefficient, and the property is poorly insulated as evidenced by it's EPC rating.
15. The Landlord provides curtains carpets and white goods except for a fridge.
16. The Tenant states that the property is poorly maintained including rotten and ill-fitting windows, poor external decorations, missing ridge tiles to the roof, damaged and flaking internal decorations. The Tenant also states that the floors are cold and that she has difficulties in controlling damp caused by condensation. She states that the hot water tank is too small for the property and the dishwasher has never worked reliably.
17. The Tenant has removed the living room carpet as it was stained and damaged by previous tenants. The Tenant also states that there is often noise from a nearby Royal Navy firing range, from the Public House and some nuisance from a nearby Camping Site.
18. The Tenant cites several comparable properties let for £650 per month to £700 per month, said to be in better condition than Bramble Cottage. She is prepared to pay a rent of £650 per month provided that certain repair items are remedied by the Landlord.
19. The Tenant also refers to several personal circumstances relating to her ability to pay a higher rent.
20. No representations were received from the Landlord or the Landlord's Agent. Neither party provided any photographs.

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 Tenant are not relevant to this issue and are not to be considered by the Tribunal.
23. Having carefully considered the representations from the Tenant and associated correspondence and using its own judgment and knowledge of rental values in Plymouth and its environs 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.
24. However, the Property is not in a condition that is usual for an open market letting and several adjustments to this open market rent need to be made. Using its experience the Tribunal decided that the following adjustments should be made:

Tenant's provision of curtains and fridge	£10
Dated heating, poor windows and poor insulation leading to high energy costs	£50
General condition and décor/mould growth	£40

TOTAL	£100

25. 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

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 £600 per month.
27. The Tribunal directed that the new rent of £600 per month should take effect from 15th October 2021, this being the date specified in the original 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.