



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

**Case Reference** : **CHI/40UC/MNR/2021/0082**

**Property** : **7 Petherton Road, North Newton,  
Bridgwater, Somerset, TA7 0BD**

**Applicant** : **Ms J Barnes (Tenant)**

**Respondent** : **Mrs S Habberfield (Landlord) c/o  
Andrew Lees Lettings**

**Date of Application** : **25th July 2021**

**Type of Application** : **Sections 13 and 14 of the Housing Act 1988**

**Tribunal** : **Mr R T Brown FRICS Chairman  
Mr M C Woodrow MRICS  
Mr M J F Donaldson FRICS MCI Arb MAE**

**Date** : **24th September 2021**

---

**REASONS FOR DECISION**

---

© CROWN COPYRIGHT 2021

### ***Background***

1. The Tribunal gave formal notice of its decision by a Notice dated 24th September 2021 in the sum of **£700.00 per calendar month**.
2. By an application dated 25th July 2021, the tenant of the above property referred a notice of increase in rent served by the landlord under section 13 of the Housing Act 1988 to the Tribunal.
3. The landlord's notice dated the 8th July 2021 proposed a rent of **£825.00 pcm** with effect from 22nd August 2021, in place of the current rent of £695.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and commenced on 22nd April 2016. The tenancy is subject to the Landlord's repairing obligations defined in Section 11 the Landlord and Tenant Act 1985.

### ***Property and Inspection***

5. Following the Directions dated 4th August 2021 (amended 31<sup>st</sup> August 2021) and the explanation contained therein, the Tribunal did not inspect the premises.
6. Extracting such information as it could from the papers supplied to the Tribunal by the parties, by reference to information publicly available on the internet and with the benefit of its knowledge and experience the Tribunal reached **the following conclusions and found as follows:**
7. The property is located in the village of North Newton. Limited local amenities are available including a primary school.
8. The property comprises a semi-detached house which appears to be of traditional construction under a pitched and tiled roof.
9. The accommodation comprises: 1 reception room, kitchen, 3 bedrooms, bathroom and conservatory. Outside: garden.
10. Carpets and cooker are included in the Tenancy.
11. The Tribunal is informed that all mains services (except gas) are connected. There is oil central heating and windows are double glazed.

### ***Hearing***

12. A hearing was not requested.

### ***Documents supplied to and considered by the Tribunal***

13. Tribunal Directions dated 4th and amended on 31<sup>st</sup> August 2021.
14. Landlord: Tribunal Reply Form and separate submissions document.

15. Tenant: Application Form, Notice of Increase, Tenancy agreement, Tribunal Reply Form and separate submission, Environmental Investigation Report from Seed Environmental.

***Landlord's Representations (summarised):***

16. The Landlord says in the Reply Form and submission:
  - a) The following works were intended to be started on 9th August:
    - 1) New gate
    - 2) New fence
    - 3) Decorate conservatory
    - 4) Re-point brick wall
    - 5) Remove climber from front wall of the property
    - 6) Clad side of lean-to conservatory in PVC tongue and groove.
  - b) Kitchen units were provided by the tenant (believed free of charge) and installed at the Landlord's cost. A new cooker, worktop and sink were supplied.
  - c) New oil tank
  - d) New conservatory roof and windows.
  - e) The property itself is a good property situated in a good village location. The kitchen is recent and the bathroom about 15 years old.
  - f) There has been an oil leak. This is being resolved by the insurance company, Environment Health and the council.
  - h) There is a letter dated 2nd July 2021 from Sedgemoor District Council saying the matters of concern raised by Ms Barnes would not rate on an HHSRS calculation.
  - i) This is the second increase since the Tenancy commenced. The Tenant was asked to make an offer and responded with a rent below the present rent.
  - j) If put on the market they say they would advertise it at a rent of £900.00 to £975.00 pcm. A list of comparables is attached with asking rents ranging from £900.00 to £1,750.00 pcm.

***Tenant's Representations (summarised)***

17. In the Application, Reply Form and submission the tenant says:
  - a) Tenant redecorated (with landlord's consent) the living room and 2 bedrooms.
  - b) Carpets all replaced.

- c) After discussion with the Landlady the Tenant ordered a new shed (to replace the old one) but this has not been erected due to the oil leak and permission has now been revoked.
- d) The kitchen units were replaced in 2017.
- e) The condition of the conservatory meant it could not be used as a room. Some repairs have since been undertaken but the work needed is not complete.
- f) Tenant modernised the TV aerial.
- g) Leaking Oil tank issue. The tank has been replaced but the land has not been decontaminated. Tribunal's Note: The Tribunal does not summarise the whole of this dispute because the only matter relevant to the issue before the Tribunal is whether or not the tank has been properly replaced and the surrounding area properly cleaned and reinstated.
- h) The W.C. has been repaired.
- i) Despite repair the back door lock is temperamental.
- j) The porch door and frame are rotten.
- k) There is a limited hot water supply and it takes up to 2 hours to reheat. Tenant has been advised that the header tank is too small.
- l) The hand shower over the bath does not work.
- m) The 2 soakaways are not draining properly causing water to run down the path and puddle in next doors garden.
- n) The living room fire has a label saying 'do not use'.
- o) Tenant reported 2 cracks in the wall under the stairs which have now been filled but white mould is growing.
- p) The property is built on an unsupported bank. Part of this collapsed during the oil clean up and has not been made good.
- q) The fence has needed replacing since the tenancy commenced.
- r) The Landlady provided a new cooker but the tenant paid for its connection and the removal of the old one.
- s) The Tenant produced a schedule of some 27 properties at rents ranging from £675.00 to £825.00.
- t) Also attached is an expert witness report dated 9th August 2021 prepared by Mr T Wilson FRICS of Paterson Harkin instructed by solicitors on behalf of the Tenant highlighting issues of concern:

- 1) Fireplace not working
- 2) Conservatory roof disrepair causing leaking.
- 3) W.C. flush not working.
- 4) Pointing in gaps in brickwork in the under stairs cupboard.
- 5) An oil tank installed in December 2020 is not fit for purpose and leaks. An estimated 1500 to 3000 litres of oil (from both the old and new tanks) has leaked into the ground.

### ***The Tribunal's Deliberations***

18. 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 or Landlord are not relevant to this issue.
19. The Tribunal found as a matter of fact that the notice of rent increase was a Notice under section 13 as prescribed by Statute.
20. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate registering the property at E expiring on 19th July 2031. The legal minimum standard for letting a property is Rating E.
21. Based on the knowledge of its members, the Tribunal finds that the market for this type of property is very sensitive to condition and inventory.
22. The Tribunal, acting as an expert tribunal, determined what rent the landlord could reasonably be expected to obtain for the subject property in the open market if it were let today in the condition and subject to the terms of such a tenancy that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels. Having done so, it concluded that such a likely market rent for a similar modernised property in fair condition with central heating, modern bathroom and kitchen facilities, floor coverings, curtains, all white goods and an EPC Rating above F would be **£795.00 pcm.**
23. The Tribunal, after careful consideration of the current market conditions and the apparent condition of the subject property, determine that the subject property is below the standard that would normally be expected for a property of this type and make a deduction in respect of the items identified below as follows:
  - a) Contaminated land - £75.00 pcm.
  - b) General level of disrepair identified by the parties - £20.00 pcm.

A total deduction of £95.00 pcm.
24. Accordingly the Tribunal determined that the market rent for the subject property is **£700.00 pcm.**
25. The rent will take effect from 22nd August 2021 being the date specified by the landlord in the notice of increase.

**Relevant Law**

26. Sections 13 and 14 of the Housing Act 1988.
27. Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (SI 2015 No.620)

**RIGHTS OF APPEAL**

1. A person wishing to appeal this decision (on a point of law only) 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.