



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

Case Reference : **CHI/00ML/MNR/2021/0003**

Property : **14 Freehold Terrace, Brighton, BN2
4AB**

**Applicant
(Tenant)** : **Miss S Marley and Mr C Sherrin**

Respondent : **Ms J Mosbacher (landlord)**

Date of Application : **Received 30th December 2020**

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

Tribunal : **Mr R T Brown FRICS
Mr S Hodges MRICS
Mr N Robinson FRICS**

Date : **15th February 2021**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 15th February 2021 determining the rent at **£1,100.00 per calendar month**.
2. By an application received on 30th December 2020, 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 4th December 2020 proposed a rent of **£1,100.00 per calendar month** with effect from 6th January 2021, in place of the current rent of £950.00 per calendar month.
4. The tenancy agreement dated 3rd November 2017 is an assured tenancy commencing on 6th November 2017. The tenancy agreement is in standard form and 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 12th January 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. Freehold Terrace is located close to the A270, Lewes Road, within 200m of Sainsbury's. Other local amenities including the Lewes Road shops, Aldi, Halfords and B & Q are nearby. Transport links to Brighton centre and the Universities of Brighton and Sussex are good.
8. The property comprises a ground floor centrally heated double glazed unfurnished flat with rear decking and small front garden.
9. The accommodation comprises: Open plan Living Room/Kitchen, Bathroom and 2 Bedrooms.
10. No specific information was provided to the Tribunal with regard to the supply of utilities. In the absence of any other information the Tribunal has assumed that mains, water, electricity, gas and drainage to be connected.

Hearing

11. A hearing was not requested.

Documents supplied to and considered by the Tribunal

12. Tribunal Directions dated 12th January 2021.
13. Landlord: Tribunal Reply Form and associated documents including damp survey and evidence of local rents.

14. Tenant: Application and schedule of improvements.
15. **The Landlord's** representations included a schedule of available two bedroom flats available on Rightmove and an email from Brighton and Hove Housing Department advising that a current market rent for the property would be £1,100.00 pcm. The landlord produced another email from local letting agent Cubitt & West confirming they had viewed the property and considered that £1,100.00 pcm would be the current market rent.
16. The Landlord also produced 2 reports (Prokil Ltd and Sussex Damp Surveyors) concerning the alleged damp. Both these reports concluded that other than some minor issues and the effects of condensation there were no significant damp issues and that the property was deemed fit for human habitation.
17. The landlord also referred the Tribunal to a report dated 23 January 2021 from the Private Sector Housing Department at Brighton & Hove council which concluded that “the flat appeared to be well maintained with the exception of the rear and front gardens” and “the property did not show any visible signs of mould growth or damp penetration.”

Tenant's Representations

18. In an attachment to the application the tenants stated they had carried out work after moving in including: thorough cleaning, unblock w.c., removed rubbish. Repaired: front steps, leaking shed roof (still un-useable).
19. Ongoing issues include: persistent damp, landlord's failure to respond to repair requests, the high crime level and noise from the flat above. The narrow one way street and parking was also an issue.

The Tribunal's Deliberations

20. The Tribunal may proceed to determine the rent at which it considers the subject property might reasonably be expected to let on the open market by a willing landlord under an assured tenancy.
21. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
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.
23. The Tribunal checked the National Energy Performance Register and noted that there was no certificate (EPC) registered for the property. The minimum EPC rating required when offering a property to let (or renewing an existing tenancy) is E and it is illegal to offer a property to let with a rating below this level.

24. 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. In this case, if offered today in the market, the property would require enhancement and an upgraded inventory to include white goods, floor coverings and a high EPC rating.
25. The Tribunal considered the evidence supplied by the parties and although provided by property professionals it was not supported by comparable evidence.
26. The Tribunal, after careful consideration of the evidence and current market conditions, determined that the market rent for the subject property is **£1,100.00 per calendar month.**
27. The rent will take effect from 6th January 2021 being the date specified by the landlord in the notice of increase.

Relevant Law

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

Robert T Brown Chairman

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 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