



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

Case Reference : **CHI/00MS/MNR/2021/0032**

Property : **Flat 12 Kerrigan Court, 16 Westwood Road, Southampton SO17 1JT**

Applicant : **Mr Y Kotulskiy and Mrs I Kotulska (Tenants)**

Respondent : **Stonewater Ltd (Landlord)**

Date of Application : **22nd March 2021**

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

Tribunal : **Mr R T Brown FRICS Chairman
Ms C D Barton MRICS
Mr S Hodges FRICS**

Date : **17th May 2021**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 17th May 2021 in the sum of **£168.86 (including fixed service charge of £50.22) per week.**
2. By an application dated 22nd March 2021, the tenants 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 1st March 2021 proposed a rent of **£168.86 (including fixed service charge of £50.22) per week.** with effect from 5th April 2021, in place of the current rent of £147.62 (including fixed service charge of £30.73) per week.
4. The tenancy is an assured tenancy which commenced on the 24th November 2018, following a previous 'starter tenancy' which commenced on 23rd November 2017. In any event 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 14th April 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 a modern development located in a residential area to the North of Southampton City Centre and close to Southampton Common.
8. The property comprises a self contained first floor flat in a purpose built block with double glazing and central heating.
9. The accommodation comprises: 1 reception room, kitchen, 2 bedrooms and bathroom. Outside: communal gardens, drying area and off street parking.
10. The property is let unfurnished and without white goods.
11. 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, gas and electricity to be connected.

Hearing

12. A hearing was not requested.

Documents supplied to and considered by the Tribunal

13. Tribunal Directions dated 14th April 2021.
14. Tenant: Application, accompanying letter and Reply Form.
15. Landlord: No submissions.
16. Tenancy Agreement, Notice of Increase and accompanying letter setting out the service charges.

Landlord's Representations

17. The Landlord makes no submission.

Tenant's Representations

18. The tenants say that (in summary):
19. They are concerned by the size of the increase (14.39%).
20. They have contacted the Landlord and explained that one months notice of increase must be given and in respect of the service charge the tenants must be consulted which they have not been.
21. They have consulted with their neighbours (in 2 bedroom flats) and noticed the letters are different and individual prices are provided from person to person.
22. The level of service has decreased and a request for a general expenses statement has not been forthcoming.

The Tribunal's Deliberations

23. 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.
24. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
25. The personal circumstances of the Tenant or Landlord are not relevant to this issue.
26. The Tribunal checked the National Energy Performance Register and noted that the subject property has a certificate which expires on 16th October 2027 with a Rating of C . The minimum level for legally letting a property is E.
27. 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. The subject property appears to the Tribunal to be in satisfactory condition and would prove attractive if offered on the market at the present time.
28. **A comparison of the service charges is set below:**

	02/05/2018	05/04/2021
Rent	116.89	118.64
Service		
Retirement Living Costs	8.96	9.74
Water Rates Communal		0.25
Grounds Maintenance	1.45	1.95
Fire Equipment	0.95	2.28
Call System	1.74	4.24
Door Entry	0.10	1.94
Heating Communal	0.57	0.77
Heating Individual	6.37	8.58
Cleaning Communal	3.62	4.34
Window cleaning	0.43	0.49
Refuse Disposal		2.50
Communal repairs and Maintenance	0.05	
Laundry maintenance	0.49	0.49
TV aerial	0.10	0.81
Provision to replace Door Entry	1.13	1.11
Provision to replace Furniture/fittings	0.20	0.20
Provision to replace laundry	0.11	0.10
Provision Lift maintenance	1.00	0.94
Provision replace lift		0.98
Pest Control	0.12	0.07
Depreciation capital items	1.00	1.34
Miscellaneous service charge costs	0.05	
Provision to replace warden call system		1.33
Health and Safety	0.03	0.05
Communal electric	2.26	2.97
Scheme Computer and Telephony		2.75
Total per week	147.62	168.86

29. The Tribunal noted that neither party had addressed the question the Tribunal is asked to determine namely the appropriate rent (including fixed service charge) for a property of this type in this location
30. In these circumstances in order to consider the matter within the terms of Rule 3 of The Tribunal Procedure (First -tier) (Property Chamber) Rules 2013 the Tribunal relies on the experience and knowledge of its members.

31. The Tribunal, after careful consideration of the current market conditions concluded that this property is in good condition commensurate with the current market and the rent Landlord's proposed rent is confirmed at **£168.86 (including fixed service charge of £50.22) per week.**
32. The rent will take effect from 5th April 2021 being the date specified by the landlord in the notice of increase.

Relevant Law

33. Sections 13 and 14 of the Housing Act 1988.
34. 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 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.

The Tribunal Procedure (First -tier) (Property Chamber) Rules 2013

Overriding objective and parties' obligation to co-operate with the Tribunal

3.-(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes-

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the Tribunal effectively; and

(e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it-

(a) exercises any power under these Rules; or

(b) interprets any rule or practice direction.

(4) Parties must-

(a) help the Tribunal to further the overriding objective; and

(b) co-operate with the Tribunal generally.