



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

Case Reference : **CHI/43UL/MNR/2021/0101**

Property : **56 Waverley Lane, Farnham, Surrey, GU9
8BN**

Applicant : **Mr M and Mrs Y Fox (Tenants)**

Respondent : **Mrs K Shea c/o Moore Barlow LLP
(Landlords)**

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

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

Tribunal : **Mr R T Brown FRICS Chairman
Mr M J F Donaldson FRICS MCI Arb MAE
Mr P Smith FRICS**

Date : **18th October 2021**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 18th October 2021 that the rent will be **£3,750.00 per calendar month (pcm)**.
2. By an application dated 27th August 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 29th July 2021 proposed a rent of **£3,950.00 pcm** with effect from 1st September 2021, in place of the current rent of £3,000.00 pcm.
4. The tenancy is an assured shorthold tenancy. The agreement is in common form and commenced on 1st December 2019. 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 8th September 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 a rural part of Farnham which is a popular commuter town for London.
8. The property comprises a substantial double glazed centrally heated detached house.
9. The accommodation comprises: hall, living room, kitchen/conservatory, play room, study, store, 6 bedrooms (3 en-suite), bathroom and WC. 1/2 acre of gardens and ample parking.
10. Carpets, curtains, and all white goods (Oven hob, fridge freezer, washing machine and tumble dryer) are included in the Tenancy.
11. The Tribunal understands that all mains services are connected.

Hearing

12. A hearing was not requested.

Documents supplied to and considered by the Tribunal

13. Tribunal Directions dated 8th September 2021.
14. Landlord: Reply Form.
15. Tenant: Application and Reply Forms, Notice of Increase and Tenancy Agreement.

Landlord's Representations (summarised):

16. The Landlord says:

- a) The Landlord undertook repairs when requested by the Tenant including: replacement central heating boiler, the temporary installation of CCTV and the permanent installation of flood lighting.
- b) The Landlord has been unable to carry out redecorating due to the Tenants being unwilling to move out temporarily (at the Landlord's expense).
- c) The Tenants have not undertaken any repairs or improvements to the Landlord's knowledge.
- d) The property extends to 3,800 square feet and is in good modern condition
- e) The property is in a good school catchment area. Farnham mainline Railway station is within walking distance
- f) Mr Fox is not a named Tenant.
- g) Purchase sale particulars are attached with (undated) photographs.
- i) The Landlord considers the property to be at the lower end of the market in Farnham and produces details of 5 comparables of 5 bedroom houses to let ranging from £4,000 pcm to £6,000 pcm

Tenant's Representations (summarised)

17. The tenant says:

- a) Believes the effect of the property being targeted by a violent individual affects the market rent.
- b) The decor is now tired.
- c) The heating bills are excessive due to poor insulation.
- d) The hallway floor contains large gaps.
- e) The covered garden walkway is unsafe.
- f) The gas safety inspection was not carried out within 12 months.
- g) Tenant believes that because there is no rental agent involved this reduces the rental value.
- h) Yvonne Fox is not the sole the tenant. The tenants are a family of 7 and have all been registered at the property since 2016.
- i) The rent should be no more than £3,000.00 pcm. Comparables are attached at rents ranging between £1,500.00 pcm to £2,800.00 pcm.
- j) Photographs (undated) of the property are included.

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 Tribunal does not take into consideration the personal circumstances of the Landlord or Tenant in making its determination (including issues between Landlord and Tenant which do not affect the rental value of the property itself).
- 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 does not appear on the Register. 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.
23. The Tribunal noted the parties comments on the comparables and the accommodation provided. Having done so, it concluded that 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 **£4,500.00 pcm.**
24. The Tribunal, after careful consideration of the current market conditions, the evidence of the parties and using its knowledge and judgement placed more weight on the evidence of the Landlord than that of the Tenant.
25. The Tribunal then considered the apparent condition of the subject property being in need of some internal redecoration. The Tribunal concluded that the sum of £750.00 should be deducted to reflect the apparent state of decoration. The Tribunal did not consider that the Restraining Order should be a matter reflected in the rent as the market would, on a balance of probabilities be unaware of its existence.
26. The Tribunal determined that the market rent for the subject property is **£3,750.00 pcm.**
27. The rent will take effect from 1st September 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)

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.