



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

Case Reference : **CHI/43UM/MNR/2020/0076**

Property : **6 Mabel Street
Woking
Surrey
GU21 6NN**

Applicant : **Ms Halina Arendt**

Representative : **None**

Respondent : **Ms Helen Edwards**

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
Ms C Barton BSc MRICS
Mr R Reichel BSc MRICS**

Date of Inspection : **None. Determined on the papers**

Date of Decision : **3rd February 2021**

DECISION

Summary of Decision

1. On 3rd February 2021 the Tribunal determined a market rent of £1,150 per month to take effect from 29th November 2020.

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 October 2020 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £1,475 per month in place of the existing rent of £880 per month to take effect from the 6th December 2020. The notice complied with the legal requirements.
4. On 15th October 2020 the Applicant applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
6. The Tribunal issued directions on 18th November 2020 informing the parties that the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
7. Both parties submitted detailed papers by the specified dates very clearly setting out their respective cases. The papers were also copied to the other party. A Tribunal hearing was arranged for 3rd February 2021 using video conferencing.
8. On 31st December 2020 the Respondent sought to make a further written representation which she had also copied to the Applicant.
9. The Tribunal had to decide whether it should accept the second submission from the Respondent dated 31st December 2020 which included some additional photographs. The Tribunal decided that as this had been submitted over one month before the date of the Hearing the Applicant had not been unfairly disadvantaged and the Tribunal would allow the additional submission.

The property

10. From the information given in the papers and available on the internet the property comprises an end-terraced house in an area of similar style properties within Woking, about 1/2 mile from Woking station.

11. The accommodation is described as including a Living Room, Study, Kitchen, two double Bedrooms and one single Bedroom, a Bathroom and separate WC. There is an off-street parking space and a small garden.
12. The property has night store heating and double-glazed windows. Carpets, curtains and white goods, including a dishwasher, are included in the tenancy.

Submissions

13. The initial tenancy began on 6th May 2002. The Applicant explained that she had come to regard this as her home and had believed that she had security of tenure as a sitting tenant. Her original tenancy had been arranged through Respondent's father although she now realised that the property had been owned by Respondent's mother who had died in 2013.
14. Beds and wardrobes in all three bedrooms are included in the tenancy together with a chest of drawers, sofa, armchair, wooden cabinet, and display cabinet.
15. Unusually, the Respondent also pays for the water rates for the property which are £346.68 for the year 2020/2021 as evidenced by a copy invoice from Affinity Water.
16. The Applicants submission included useful photographs of the property and her statement of case clearly set out the minor repairs that she had carried out during her tenancy.
17. Some of the photographs showed evidence of black mould growth, most likely caused by condensation, and showed general wear and tear to the property. The Applicant explained that the property was difficult to heat in the winter months using night store heaters, that one of these was ineffective and the ground floor bathroom and WC within an annexe were particularly cold. She also stated that the property became very hot in the summer.
18. The Applicant acknowledged that the Respondent had offered to install roof insulation, but this work had not been accommodated so far.
19. The submissions from the Respondent set out the repairs that had been completed by her and some of the recent events regarding the management and repair. The Respondent included reference to a rent estimation from Openrent, the Local Housing Allowance, Woking Borough Council 'Lets Rent' Scheme, Local Reference Rents and Office for National Statistics data.
20. The Applicant considered that the proposed increase in rent was high and should be limited to £900 per month whilst the Respondent asked the Tribunal to confirm a rent of £1,450 per month.

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 and with a video hearing. Having read and considered the detailed papers submitted by both parties and considered the representations, questions, and responses of both parties during the Hearing 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 at the date of the Tribunal by a willing Landlord under an assured tenancy. The personal circumstances of the Tenant are not relevant to this issue nor are the previous actions of the Landlord or Tenant.
- 23. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Woking 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 £1,450 per month.
- 24. However the property is not in such a condition and certain deductions should be made from this figure to reflect its condition when compared to the 'open market' standard.
- 25. Relying on its own experience the Tribunal decided that a deduction of £100 per month should be made to reflect the fact that the house does not have a modern central heating system, £100 per month to reflect the dated kitchen, £50 to reflect the dated bathroom, £50 to reflect the poor insulation and problems with associated condensation and £30 to reflect general wear and tear that would be expected in a tenancy of this length.
- 26. An addition should be made to the rent to reflect the fact that the Landlord pays the water rates for the property which are £28.81 per month for the present financial year, rounded to £30 per month.

27. The Tribunal also considered whether some addition should be made to the rent to reflect the Respondents provision of furniture. Given the age of the furniture and that most prospective tenants would wish to provide their own furniture the Tribunal decided to make no addition to the rent in this regard.
28. Accordingly the Tribunal decided that the new rent should be fixed at £1,150 per month.
29. The Tribunal received no indication that the starting date for the new rent specified in the Landlord's notice would cause the Applicant any undue hardship.

Determination

30. 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 and in its present condition was £1,150 per month.
31. The Tribunal directed that the new rent of £1,150 per month should take effect from 6th December 2020 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.