



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

Case Reference : **CHI/00HC/MNR/2021/0015**

Property : **7 Orchard Close, Kewstoke, Weston
Super Mare, BS22 9XY**

Applicant : **Ms C Rowlands (Tenant)**

Respondent : **Mr S Barton (Landlord)**

Date of Application : **16th February 2021**

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

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

Date : **9th April 2021**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 9th April 2021 in the sum of **£625.00 per calendar month (pcm)**.
2. By an application dated 16th February 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 29th January 2021 proposed a rent of **£675.00 pcm**, with effect from 18th March 2021, in place of the current rent of £585.00 pcm.
4. The assured shorthold tenancy agreement dated 4th April 2018 for an initial term of 12 months commencing 18th April 2018, is in standard form and 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 10th March 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 residential area of mixed dwellings. All local amenities available.
8. The property comprises a furnished first floor flat with double glazing, carpets, curtains and white goods, but no central heating.
9. The accommodation comprises: 1 living room, 2 bedrooms, bathroom and kitchen.
10. There is a garden accessed via the side of the property. There is no off street parking.
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, drainage and electricity to be connected.

Hearing

12. A hearing was not requested.
13. The Tribunal having reviewed the papers did not consider that it needed to review the Directions which indicated that this case could be considered on the papers presented without a hearing.

Documents supplied to and considered by the Tribunal

14. Tribunal Directions dated 10th March 2021.

15. Landlord: Tribunal Reply Form, witness statement.
16. Tenant: Application, Tenancy Agreement and inventory (excluding photographs referred to), Notice of Increase, and Statement.

Landlord's Representations

17. The Landlord says in the Reply Form and statement (summarised):
18. That there is an ongoing dispute with the tenant in relation to repair of the front door and the level of condensation caused in his opinion by the use of an old fashioned tumble drier venting into the property.
19. The Landlord disagrees with the Tenants comments that:
 - a) the tenant does not pay for gardening.
 - b) the tenant asked for permission to decorate.
 - c) the landlord disagrees that the repair of the front door is his responsibility as it was the result of a visit from the police.
 - d) there is 'free standing heating'.
 - e) a smoke alarm is installed.
20. At the bottom of the Notice of Increase, the Landlord says that on 27th January 2021 there were 14 properties listed on Rightmove at rents ranging between £650.00 and £1,204.00 pcm.
21. After discounting the three flats quoted as over £1,000.00 the average rent is £738.18 pcm.
22. There has been no increase in the rent since the tenant moved in 3 years ago.
23. Brief details of seven of the comparables used were provided which were advertised as available to rent at rents ranging between £625.00 and £900.00 pcm.

Tenant's Representations

24. The tenant says in the Application and Statement (summarised):
25. The rent increase should be to £600.00 pcm. This reflects the current properties on the market which have the advantage of central heating. All appear to be in converted property at rents ranging from £565.00 to £625.00 pcm.
26. During the tenancy the tenant had redecorated all rooms.
27. The property has been in disrepair since the tenant moved in. A mutual agreement brokered via mediation by the Private Rented Housing Team of North Somerset Council following a conversation with both parties on 26 November 2020 meant a full Housing Health and Safety Rating System assessment would not be undertaken by the Council on the basis that the Landlord would undertake the following works by 25 February 2021:

- a) Install a fixed permanent heating system.
- b) Overhaul main door and frame.
- c) Insulate the loft conforming to BS5083 Part 1.
- d) Comply with the Smoke and Carbon Monoxide Regulations.
- e) Remedy the damp in the flat and replaster as necessary.
- f) Provide a report on the condition of the wiring and undertake any necessary work to comply with current regulations.
- g) Provide a new Energy Performance Certificate after the work is complete. At the time the rating was F.

The Tribunal's Deliberations

- 28. 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.
- 29. The Tribunal found as a matter of fact that the notice was a Notice under section 13 as prescribed by Statute.
- 30. 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.
- 31. The Tribunal checked the National Energy Performance Register and noted that the subject property had a rating of C and a certificate expiring in 2030. A property offered to let must have a certificate with a rating of at least the legal minimum standard (Rating E).
- 32. 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.
- 33. It appeared to the Tribunal that some of the work required by North Somerset Council may have been completed as the property now has an Energy Performance Certificate Rating of C (assessed on the 7th December 2020). Neither party explained which works of those required by North Somerset had been completed and accordingly the Tribunal has to make a judgement on this point. It is not clear whether or not the planned upgraded heating system has been installed as the Landlord states in his 'Reply Form' that the work was due to commence on 22nd March 2021. As the effective date of this determination is 18th March 2021, the Tribunal assumes for the purpose of this determination, that the heating work has not been completed.
- 34. The Tribunal considered the comparable evidence supplied by the parties.
- 35. The Tribunal, after careful consideration of the current market conditions, the arrangement of the accommodation and the defects identified by the Tenant, determined that the market rent for the subject property is **£625.00 pcm.**

36. The rent will take effect from 18th March 2021 being the date specified by the Landlord in the notice of increase.

Relevant Law

37. Sections 13 and 14 of the Housing Act 1988.
38. 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

Appendix

Tribunal Procedure (First-tier)(Property Chamber) Rules 2013 as amended

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.