



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

Case Reference : **CHI/29UC/MNR/2021/0089**

Property : **20b Oxford Street, Whitstable,
Kent CT5 1DD**

Applicant : **Ms A Grant and Mr M Maloney
(Tenants)**

Respondent : **YASP Holdings Ltd (Landlord)**

Date of Application : **29th July 2021**

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

Tribunal : **Mr R T Brown FRICS Chairman
Mr J Reichel BSc MRICS
Mr M Ayres FRICS**

Date : **29th September 2021**

REASONS FOR DECISION

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Background

1. The Tribunal gave formal notice of its decision by a Notice dated 29th September 2021 in the sum of **£790.00 per calendar month**.
2. By an application dated 29th July 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 21st June 2021 proposed a rent of **£1,350.00 pcm**, with effect from 1st August 2021, in place of the current rent of £625.00 pcm.
4. The tenancy is an assured shorthold tenancy. The tenancy agreement is in common form and commenced on 1st February 2017. 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 19th August 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 **found as follows:**
7. The property is located in a mixed area close to the centre Whitstable fronting a busy main road.
8. The property comprises a self contained first floor flat in a converted property above a shop.
9. The accommodation comprises: 2 reception rooms, 2 bedrooms, (or 1 reception room and 2 bedrooms), kitchen and bathroom. No off street parking.
10. Carpets are included in the Tenancy.
11. The Tribunal understands that all mains services are connected. There is central heating and double glazing.

Hearing

12. A hearing was not requested.

Documents supplied to and considered by the Tribunal

13. Tribunal Directions dated 19th August 2021.
14. Landlord: Reply Form email and Rental valuation report
15. Tenant: Application and Reply Form, Notice of Increase, Tenancy agreement,

Landlord's Representations (summarised):

16. The Landlord's agent says in the Reply Form, email and Rental Valuation:

- a) The premises are 3 bedroom not as the tenant suggests 2 bedroom.
- b) A new electric consumer unit was installed in May 2021.
- c) A service charge is payable in respect of insurance and upkeep of the building.
- d) The property is of traditional decor in fairly good condition.
- e) The property is close to golf club, electric car charging and beach. Bus stop outside the property and Whitstable station 1/2 mile.
- f) Oxford Street is a highly sought after location in the heart of the town.
- g) The Agent Global Property Consultants gives an opinion that the current market rent is in the region of £1,350.00 pcm. Attached are a series of brief details of modern 3 bedroom properties offered at rents between £1,350.00 and £1,750.00 pcm.
- h) Undated photographs which show the property fully occupied.

Tenant's Representations (summarised):

17. The Tenant says in the application and reply form:

- a) Improvements made by Tenant: All shelves, coat rack, hanging rail, work surface in kitchen, shower, blind in bedroom, lampshades and fireplace surround.
- b) They have not seen an Electrical Safety Report.
- c) The bathroom suite is more than 20 years old.
- d) There is damp due to the condition of the rendering.
- e) Numerous cracks in the hallway ceiling.
- f) There are cracks on the front of the building due to a historic problem with the roof.
- g) Over 20 years of occupation the agent has noted repairs at annual inspection but no work has been undertaken. For this reason the rent has always been kept low.
- h) The golf course is a 1/4 mile away and the harbour 1/2 a mile away. There is an electric charging point in the adjacent street.
- i) Mr Gupta is a director of Global Property Consultants who prepared the Rental Valuation.
- j) A series of photographs showing: the poor condition of: Bathroom - Kitchen showing work surfaces, cupboards, flooring and boiler (all over 20 years old) - Bedroom 1 peeling paint and paper damp marks - Bedroom 2 damp peeling paper and paint - Hallway peeling paint and paper, exposed lath ceiling, old carpets - Lounge peeling paper and paint, damaged floor due to leak, rotten window ledge - Dining Room peeling paint and paper
- k) Since May 2021 there has been no Gas Safety Certificate neither is there an Energy Performance Certificate..
- l) Comparables at rents ranging from £850.00 to £1,150.00 pcm are attached.
- m) In his statement Mr Gupta says the valuer did not take account of the parking space nor did the tenant pay a deposit.
- n) The Tenant had free use of the parking space until a separate charge was made in April 2021.
- m) The Tenant was not aware the flat has been advertised until seeing the advert on Gumtree on 2nd September when it was shown as available at

£950.00. This was premature as the Notice asked us to vacate by 9th October 2021.

o) The Landlord's comparables are all for new purpose built semi detached properties. If the property were of the same standard then the Tenant accepts there should be an increase.

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 personal circumstances or any dispute between the Tenant or Landlord are not relevant to this determination.
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 has a certificate rating the property's energy performance at E expiring on 17th March 2026. 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. The subject property appears to the Tribunal to be in condition that would not immediately appeal to a prospective tenant.
22. The Tribunal places limited weight on the report of the Landlord because it appears the Landlord is linked to that company and further the comparison is not 'like with like' and there is no explanation as to how the proposed rent is calculated by reference to those comparables which all appear to be modern properties.
23. Similarly the tenant's comparables appear to be asking rents for modern properties unsupported by analysis to the subject property.
24. 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. Having done so, it concluded that such a likely market rent for a similar modernised property in fair condition with central heating, modern bathroom and kitchen facilities, floor coverings, curtains, white goods and an EPC Rating above F would be **£1,000.00 pcm**.
25. The Tribunal, after careful consideration of the current market conditions and the apparent condition of the subject property determined that the condition of the flat is below the standard that would usually be expected for a property of this type and makes the following deductions to reflect these matters:

- a) Matters of disrepair itemised by the Tenant and evidenced in the photographs: £50.00 pcm.
- b) Worn carpets and lack of curtains: £20.00pcm.
- c) Lack of modernisation to kitchen, bathroom and decoration: £75.00 pcm.
- d) Lack of modern central heating system: £25.00 pcm.
- e) Lack of white goods: £25.00 pcm.
- f) Location on main road over shop: £25.00 pcm.

26. This equates to a total deduction of 210.00.

27. Accordingly the Tribunal determined that the market rent for the subject property is **£790.00 pcm.**

28. The rent will take effect from 1st August 2021 being the date specified by the landlord in the notice of increase.

Relevant Law

29. Sections 13 and 14 of the Housing Act 1988.

30. 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.