



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

Case Reference : **CHI/00MR/F77/2018/0067**

Property : **Flat 3, Nutfield Court, 30 Nutfield Place, Portsmouth, Hampshire PO1 4JX**

Type of Application : **Decision in relation to Rent Act 1977**

Date of Decision : **15 January 2019**

Reasons for the decision

Background

1. On 4 September 2018 the landlord made an application to register the rent of the property at £101.98 per week with a variable service charge of £19.05 per week.
2. The rent had previously been registered on 23 February 2016 at £111.00 per week inclusive of £22.08 for services (variable)
3. On 29 October 2018 the Rent Officer registered the rent at £102 per week inclusive of £23.21 fixed service charge.
4. On 2 November 2018 the landlord objected on the grounds that the rent registered was lower than the previous registration. The matter was referred to the First Tier Tribunal, Property Chamber.
5. The Tribunal made Directions on 15 November 2018 indicating that the matter would be dealt with on the papers following an inspection unless either party called for an oral hearing. There has been no call for an oral hearing and the matter is therefore determined on the papers.

6. The Directions required the landlord to submit a written statement to the tenant and to the Tribunal and for the Tenant to reply. No such statements have been received.

Inspection

7. We inspected the property in the company of Mrs Chadwick. The landlord did not attend. We found the property to be a ground floor flat in a three-storey block built some 40 years ago.
8. Access is through Entryphone controlled doors into a common hallway with corridors off leading to the various flats. The flat's accommodation comprises an entrance hall off which is a living room leading to a kitchen, a shower room and double bedroom. The property is well maintained with UPVC double glazed windows and heating by radiators from a communal boiler.

Representations

9. Neither party submitted representations.

The law

10. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
11. Case law informs the Tribunal;
 - a. That ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms - other than as to rent - to that of the regulated tenancy) and
 - b. That for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

Valuation

12. Thus, in the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the

open market if it were let today on the terms and in the condition that is considered usual for such an open market letting. Neither party provided any evidence of open market lettings. The Tribunal noted that the Rent Officer's starting point was £133 per week which in the absence of any alternative evidence the Tribunal adopted.

13. However, the rent referred to in the above paragraph is on the basis of a modern open market letting where the landlord supplies white goods, carpets and curtains. In this case the Tenant supplies her own white goods, carpets and curtains and a deduction must be made to reflect the lower bid a prospective tenant would make to reflect these differences. The Tribunal has therefore made a deduction of £10 per week arriving at a net rent of £123 per week.
14. We then considered the question of scarcity as referred to in paragraph 11a above and determined that there was none in this area of South Hampshire.
15. In 2016 the Rent Officer had registered a rent with a variable service charge whereas in 2018 the service charge was said to be fixed. No explanation of the reasons for the change has been supplied to the Tribunal except a copy of an email exchange between the landlord and Rent Officer in which it is confirmed that the tenant has not entered into a "standard variable tenancy agreement".
16. The Tribunal has examined the tenancy agreement dating from 1983 and determines that the service charge provisions do not satisfy the requirements for the registration of the rent as variable.
17. We note from the copy of the "Service Charge Breakdown for 2018" that the total service charge is £23.21 of which £3.51 relates to the supply of heating to the flat.
18. We therefore determined that the uncapped Fair Rent is £123 per week inclusive of £23.21 for services (fixed) but exclusive of council tax and water rates with effect from 15 January 2019.
19. The calculation of the rent in accordance with the Maximum Fair Rent Order is set out on the rear of the Decision Notice. As required by the regulations we have deducted the variable service charge of £22.08 from the "Last Registered Rent" leaving a net rent of £88.92. Applying the RPI multiplier we arrive at a rounded figure of £102 which is deemed to include any non-variable service charge. **We therefore determine that the lower sum of £102 per week inclusive of £23.21 for services is registered as the fair rent with effect from today's date.**

D Banfield FRICS (Chairman)
Judge D Agnew
15 January 2019

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. 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.
2. 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.
3. 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.