



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

Case Reference : **CHI/29UH/F77/2019/0051**

Property : **23 Orbit Close, Chatham, Kent ME5
9NF**

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

Date of Decision : **18 November 2019**

Reasons for the decision

Background

1. On 9 July 2019 the landlord made an application to register the rent of the property at £309.89 per month inclusive of £12.94 per month for services.
2. The rent currently being charged was indicated to be £221.85 per month.
3. On 10 September 2019 the Rent Officer registered a Fair Rent of £280.95 per calendar month inclusive of £3.81 per month for services with effect from 8 October 2019. This being a shared ownership property the Gross Rent was noted as £538.11 per calendar month (50% ownership)
4. The landlord objected and the matter was referred to the First Tier Tribunal, Property Chamber.

5. The Tribunal made standard directions on 15 October 2019 requiring the landlord to send to the tenant and to the tribunal a written statement as to their assessment of the rent and for the tenant to respond.
6. The Tribunal received a copy of the landlord's statement sent to the tenant which indicated that the rent to be charged from 1 November 2019 would be £223.01 and that the reason for the appeal was that the Rent Officer had registered the service charge significantly lower than had been applied for.
7. In support of their objection the landlord provided a Budget Statement for 2018/19 with the following amounts shown as the tenant's contribution;

| | | |
|----------------------------|---------------|----------------|
| <u>Grounds maintenance</u> | | <u>£45.72</u> |
| Building Insurance | £68.16 | |
| Management fee | £28.80 | |
| Sinking Funds | <u>£12.60</u> | |
| Property specific | | <u>£109.56</u> |
| Annual Service Charge | | <u>£155.28</u> |
| Monthly Service Charge | | <u>£12.94</u> |

8. On receipt of these submissions a procedural judge reviewed the file and in view of the limited scope of the appeal decided that the matter could be determined without an inspection following which both parties were notified that the inspection would not now take place.
9. This determination is therefore made on the papers received from the Rent Officer and the landlord's submission.
10. As it was not clear how the Rent Officer had calculated the shared equity proportion the Tribunal sought clarification from the Rent Officer who provided the following calculation.

| | | |
|-----------------------------------|--------------|-------------------------|
| Equivalent Fair Rent | | £680 per calendar month |
| Less; | | |
| Insurance | £5.68 | |
| Management | £2.40 | |
| Services | <u>£3.81</u> | |
| Adjustments | | £11.89 |
| Less Repair liability | | <u>£130.00</u> |
| Gross Rent | | £538.11 |
| 50% Equity | | £269.06 |
| Add back adjustments | | <u>£11.89</u> |
| <u>Fair rent to be registered</u> | | <u>£280.95</u> |

The law

11. 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. Section 72A requires the Rent Officer to note their opinion of the amount of rent (if any) attributable to the provision of services to the tenant "to assist authorities to give effect to the housing benefit scheme"

Decision

12. In determining this objection, the Tribunal have solely addressed the grounds of the objection namely the amount of service charge registered.
13. Whilst both the Rent Officer and the Tribunal are required to provide a sum for "services", as it is included in the overall rent assessed and therefore not payable in addition to that rent its level may be considered somewhat academic.
14. In this instance it is clear that the Rent Officer has allowed the Grounds Maintenance Charge whereas the charges for Insurance, Management and Sinking Fund have been excluded.
15. The Tribunal agrees with this approach. The amount noted for services should reflect their value to the tenant which may or may not be the same as the cost to the landlord. In this case clearly the tenant receives the benefit of grounds maintenance and as such this charge may be properly noted as included in the rent. However, the costs of insurance, management and sinking fund cannot be so classified as the benefit received is to the landlord not the tenant.
16. This "cost of ownership" will no doubt be reflected by the landlord when considering what rent to charge to secure his required return on capital invested and may therefore be included in the overall rent.
17. The Tribunal therefore determines that the amount of service to be registered as included within the Fair Rent is £3.81 per calendar month.
18. In the absence of a challenge to the Rent Officer's assessment of the overall rent to be registered the Tribunal accepts that the calculation set out at paragraph 10 has been properly applied and confirms that the uncapped Fair Rent is £280.95 per calendar month inclusive of £3.81 per calendar month for services.

19. As this amount is below the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice no further adjustment is required and **we determine that the sum of £280.95 per calendar month inclusive of £3.81 per calendar month for services is registered** as the fair rent with effect from today's date.

D Banfield FRICS
18 November 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.