



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

Case Reference : **CHI/43UF/F77/2019/0061**

Property : **34a Meadow Way, Reigate, Surrey RH2
8DR**

Landlord : **BPT (Bradford Property Trust) Ltd.**

Represented by : **Grainger Plc**

Tenant : **Mrs. G. Brenchley**

Type of Application : **Rent Act 1977 (“the Act”) Determination by
a First Tier Tribunal of the fair rent of a
property following an objection to the rent
registered by the Rent Officer.**

Tribunal Members : **Mr. R.A. Wilkey FRICS (Valuer Chairman)
Mr. N. I. Robinson FRICS (Valuer Member)**

Date of Inspection : **Monday 16th December 2019
No hearing. Paper determination.**

Date of Decision : **Monday 16th December 2019**

DECISION AND REASONS

Background

1. On 8th July 2019 the landlord applied to the Rent Officer for registration of a fair rent of £822 per month for the property. The Application states that the landlord provides no services.
2. The previous registration by the Rent Officer on 15th August 2017 was £715 per calendar month, effective from 26th September 2017. The uncapped rent is not stated on the register.
3. On the 14th August 2019, the Rent Officer registered a fair rent of £725 per calendar month, effective from 26th September 2017. The amount of the uncapped rent is not stated on the register.
4. The landlord objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal (Property Chamber) Residential Property. This was a late application which was accepted by the Rent Officer.
5. Neither party requested a hearing at which oral representations could be made.

Inspection

6. The Tribunal Members inspected the property on Monday, 16 December 2019 in the company of the tenant, Mrs. Brenchley. The landlord had been informed of the inspection but was not present or represented.
7. The property is a self-contained first floor flat and is part of a building arranged as two self-contained units probably built in about 1937. The rear garden has been subdivided and each flat has exclusive use of the relevant portion. The property is part of a mixed, established residential area within reasonable reach of all usual amenities. There is no garage or space but parking in nearby roads is currently unregulated.
8. The main roof is pitched and covered with tiles. The elevations are brick with rendered and painted panels. The windows in the flat are single glazed, timber casement type and in need of overhaul. The Tribunal noted that the external paintwork to timber surfaces is in need of preparation and renewal and that there are defects to the rear guttering.

9. An unattractive external staircase leads up to the flat which comprises living room, main bedroom and small additional bedroom, kitchen and bathroom/WC. There is no central heating and limited electric heating has been provided by the tenant. A gas fire in the living room was also installed by the tenant.
10. Carpets, curtains and white goods have been provided by the tenant. The kitchen is small and in need are modernisation and upgrading. The flat was rewired by the landlord about 8 years ago. The bathroom fittings are old and in need of renewal.
11. The tenant has been in occupation for 55 years and it is apparent that little has been to modernise or improve the flat. In addition to matters referred to elsewhere, the Tribunal noted staining caused by condensation to various wall surfaces.
12. The Tribunal has not been provided with a copy of any Tenancy Agreement but the application states that the tenancy began 1st January 1987. As far as repairing and decorating liabilities are concerned, the Application to the Rent Officer states that the landlord is responsible for all repairs and external decorations and that the tenant is responsible for internal decorations and repairs. The Rent Register confirms this allocation of liability for repairs, subject to S11 Landlord and Tenant Act 1985. The parties have not provided any further information concerning the apportionment of responsibility for repairs and decorations.

Representations and correspondence

13. Neither party has requested a hearing and the Tribunal thus proceeded to make the determination based on the inspection and written representations.

Submissions by Tenant

14. No written representations have been received from the tenant

Submissions by Landlord

15. The landlord made written representations and referred to the following comparables which are stated to be self-contained purpose built flats within 1 mile of the subject property.

Harrison Close RH2

2 bed, 1 bath, 1 reception, kitchen £1,200pcm

Kingsley Grove RH2 8DU

2 bed. 1 bath, 1 reception, kitchen £1,075pcm

Somerset Road RH1

2 bed, 1 bath, reception £1,100pcm

16. The Tribunal has read and considered all the supplied correspondence and the above is only intended to be a summary of relevant points.

The law

17. When determining a fair rent, the Committee, in accordance with section 79 of the Rent Act 1977, had regard to all the circumstances including the age, location and state of repair of the property. The Committee also disregarded the effect of (a) any relevant tenant's improvements and (b) 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
18. (a) 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) 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)
19. The Rent Acts (Maximum Fair rent) Order 1999 applies to all applications for registration of a fair rent (other than a first application for registration) made to the Rent Officer on or after 1 February 1999. Its effect is to place a "cap" on the permissible amount of the increase of a fair rent between one registration and the next by reference to the amount of the increase in the retail price index between the date of the two registrations plus 7.5% in the case of a first re-

registration and 5% thereafter. The Committee must first determine a fair rent (“the uncapped rent”) and then consider whether the Order applies so as to limit the increase in the rent (“the capped rent”)

20. There are two principle exceptions. This is not the first registration so the relevant exception is contained in Art.2(7) of the 1999 Order and is as follows:

“This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.”

The Tribunal has not been made aware of any relevant works carried out to the property by the Landlord since the last registration.

Valuation and Determination

21. First of all 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.
22. The tenant did not provide any comparable evidence of rental value. The information provided by the landlord is sparse and the three comparables mentioned are not directly comparable to the subject.
23. The methodology applied by the applicant is also confusing. The application to the Rent Officer was for the sum of £822 per calendar month. However, the statement considers that “the open market rental value of 34a Meadow Way is £1,150 per calendar month fully modernised” It then proceeds to make various deductions amounting to £160 pcm resulting in an adjusted rent of £990 per calendar month.
24. The tribunal had regard to the supplied comparables and supplemented this with its own knowledge of general rent levels for this type of property and

determined that the starting point should be £975 per month.

25. However, this starting rent is on the basis of a letting in good, modernised condition. In this case, adjustment must be made to reflect the work carried out by the tenant and the need for work of modernisation as the rental bid in present condition would differ from the rent if the property were in good, modernised condition. In addition, the tenant's repairing obligations are more onerous than would normally be included in an Assured Shorthold Tenancy. In order to reflect these considerations, the Tribunal has made the following deductions from the starting point of £975 per calendar month:

Unmodernised kitchen	£ 40
Lack of central heating	£ 50
White goods provided by the tenant	£ 20
Worn and dating bathroom fittings	£ 30
Carpets and curtains provided by the tenant	£ 50
Tenant responsible for internal decorations	£ 35
External decorations and outstanding repairs	£ 20
TOTAL DEDUCTIONS	£ 245 per calendar month
Adjusted rent	£ 730 per calendar month

26. We then considered the question of scarcity as referred to above. The Tribunal did not consider that there was any substantial scarcity element within a radius of 30 miles of the subject property and accordingly no further deduction was made for scarcity.
27. We therefore determined that the uncapped Fair Rent is £ 730 per calendar month exclusive of council tax and water rates.
28. The Tribunal finds that by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that could have been registered in the present case is the sum of £792 per calendar month.
29. As the adjusted rent is below the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £730 per calendar month is registered as the fair rent with effect from Monday, 16th December 2019

30. For information only, details of the rent calculated in accordance with the Maximum Fair Rent Order details are shown on the rear of the Decision

Accordingly, the sum of £730 per calendar month will be registered as the fair rent with effect from Monday, 16th December 2019, being the date of the Tribunal's decision.

Chairman: R. A. Wilkey

Dated: Monday, 16th December 2019

Appeals

31. 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.
32. 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.
33. 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 the time limit, or not to allow the application for permission to appeal to proceed.
34. 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.
34. If the First-tier Tribunal refuses permission to appeal, in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission.