



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

Case Reference : **CHI/00ML/F77/2019/0065**

Property : **SFF 72 Montpelier Road, Brighton BN1
3BD**

Landlord : **Perth Group Holdings Limited**

Tenant : **Mr. E. Hill**

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)
Ms. Jayam Dalal (Lay Member)**

Date of Inspection : **Monday 13th January 2020
No hearing. Paper determination.**

Date of Decision : **Monday 13th January 2020**

DECISION AND REASONS

Background

1. The landlord applied to the Rent Officer on 29th July 2019 for registration of a fair rent of £610 per calendar month for the property. The Application states that the landlord provides no services.
2. The previous registration by the Rent Officer on 2nd December 2015 was £560.50 per calendar month, effective from the same date. The amount of the uncapped rent was stated on the register to be £575 pcm.
3. On the 8th October 2019, the Rent Officer registered a fair rent of £625 per calendar month, effective from the same date. The amount of the uncapped rent is not stated on the Register.
4. The tenant objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal (Property Chamber) Residential Property.
5. Directions for the conduct of the matter were issued by the Tribunal Office on 13th November 2019 and, amongst other things, the parties were advised that the determination will be made based on the inspection and written representations unless a request for an oral hearing is made within fourteen days
6. Neither party requested a hearing at which oral representations could be made.

Inspection

7. The Tribunal Members inspected the property on Monday, 13 January 2020 in the company of the tenant, Mr. Hill, and Ms. B. Campbell representing the landlord.
8. The property is a self-contained, converted flat on the second floor of a substantial bow-fronted, terraced building which was originally constructed in about 1830 but subsequently converted into flats. It forms part of a terrace of similar properties in a mixed, established part of the town within easy reach of City Centre shopping facilities, bus and train services etc. The building has frontage to a busy, local traffic route. Parking in nearby roads is restricted and regulated.

9. The main roof is not visible from ground level but is believed to be pitched and recently recovered with synthetic slates. The main walls have rendered and painted elevations. Windows in the flat are single glazed timber double hung sash type with the exception of the bedroom window which has recently been replaced with a uPVC casement type.
10. The accommodation is not particularly well arranged but briefly comprises: Small entrance lobby, front living room opening to kitchen, rear bedroom which has been partitioned to form a shower/WC. The Tribunal noted that the lower sash to the south window in the living room was a poor fit. In addition, the door entry system was not operating and it was clearly inconvenient for the tenant to walk down two flights of stairs to meet visitors.
11. There is no central heating. Limited space heating is provided by a gas fire in the living room which was supplied and installed by the tenant. Hot water to the kitchen sink is provided by an electric water heater which was also supplied by the tenant. There is a mixer unit to the shower and the recently installed electric water heater to the wash basin was installed by the landlord. The wiring was renewed by the landlord in 2006/7. The tenant has provided floor coverings, curtains and white goods. Kitchen units were supplied and fitted by the tenant many years ago.
12. The Tribunal has not been provided with a copy of any Tenancy Agreement but the Application states that the tenancy began in August 2018. As far as repairing and decorating liabilities are concerned, the Application to the Rent Officer states that the landlord is responsible for repairs and external decorations and that the tenant is responsible for internal decorations. 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

13. Neither party has made a request for a hearing. The Tribunal thus

proceeded to make the determination based on the inspection and written representations, supplemented with its own knowledge and experience.

14. The tenant wrote a letter dated 20th October 2019 to the Rent Officer. This did not include any evidence of rental value. The tribunal has read the whole of the letter but the following points are extracted:
 - (a) The tenant has replaced the gas fire in the lounge and the Sadia Heatrae electric water heater in the kitchen.
 - (b) The rotten bottom sash to the living room window was replaced by the landlord in July 2019 but does not fit properly and gaps allow draughts.
 - (c) The tenant agrees that “most of the painting work is fine”
15. The landlord has not made any written representations.

The law

16. 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
17. (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)
18. 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”)

19. 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 landlord purchased the freehold interest in August 2018 and has subsequently carried out significant works to the main building including replacement of the roof coverings, repairs and redecoration of the external rendering, installation of a modern fire alarm system etc. Attention is drawn to the observations under items 25-29 below.

Valuation

20. 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.
21. In the absence of any evidence of rental value supplied by the parties, the tribunal relied on its own knowledge of general rent levels for this type of property and determined that the starting point should be £750 per

calendar month

22. However, this starting rent is on the basis of a letting in good, modernised condition. In this case, adjustment must be made to reflect matters such as the items supplied by the tenant, the lack of modern amenities and the internal decorating obligations as the rental bid in present condition would differ from the rent if the property were in good, modernised condition and let on an assured shorthold tenancy. In order to reflect all the relevant considerations, the Tribunal has made the following deductions from the starting point of £750 per calendar month:

Carpets and curtains provided by tenant	£ 35
White goods provided by tenant	£ 15
Kitchen units supplied by tenant	£ 30
Lack of central heating	£ 40
Tenant's liability for internal decorations	£ 15
Outstanding items of disrepair	<u>£ 5</u>
TOTAL DEDUCTIONS	£ 140 pcm
Adjusted rent	£ 610 pcm

23. The Tribunal considers that there is no substantial scarcity element in the area of Greater Brighton and Hove. Accordingly, no further deduction was made for scarcity.
24. We therefore determined that the uncapped Fair Rent is £610 per calendar month exclusive of council tax and water rates.
25. The Tribunal then considered whether the works carried out by the Landlord since the last registration were sufficient to increase the previously confirmed rent by more than 15% - in which event the Maximum Fair Rent ("MFR") Provisions will not apply.
26. The Landlord's application states that, since the last registration, the landlord has carried out "re-decoration external and repairs including render and windows a new roof, some new windows"
27. The tenant makes brief reference to some of the works in his submissions as indicated under 14 (b) and (c) above.
28. However, neither of the parties advances any arguments as to whether or

not the works are such that the MFR provisions may or may not apply, no details of the work have been provided, the work mainly relates to the building as a whole rather than the flat and the Rent Officer does not consider that the rent is exempt from MFR by virtue of the work that has been carried out.

29. In view of the above, the tribunal considers that the registration is not exempt from MFR provisions by virtue of any work that has been carried out since the last registration.
30. 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 £654 per calendar month.
31. As the adjusted rent is below the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £610 per calendar month is registered as the fair rent with effect from Monday, 13 January 2020.
32. 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 £610 per calendar month will be registered as the fair rent with effect from Monday, 13 January 2020, being the date of the Tribunal's decision.

Chairman: R. A. Wilkey

Dated: Monday 13th January 2020

Appeals

33. 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.
34. 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.
35. 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.
36. 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.
37. 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.