



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

Case Reference : **CHI/23UB/F77/2020/0003**

Property : **150 River Leys
Swindon Village
Cheltenham
Gloucestershire
GL51 8SE**

Applicant : **Mr K Holloway and Miss S Nash**

Representative : **None**

Respondent : **Bromford**

Representative : **None**

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

Tribunal Members : **Mr I R Perry FRICS
Mrs J E Coupe FRICS**

**Date and Venue of
Inspection** : **16th March 2020**

Date of Decision : **16th March 2020**

REASONS FOR DECISION

Summary of Decision

On 16th March 2020 the Tribunal determined a fair rent of £252.09 per month with effect from 16th March 2020.

Background

1. On 8th October 2019 the Landlord applied to the Rent Officer for registration of a fair rent of £292.70 per month including Shared Ownership Management Fee of £29.11 and Building Insurance of £15.06. This equates to a net rental figure of £248.53. The property is a 50% shared ownership with a Secure tenancy, so a full monthly gross rent would be £497.06
2. The rent was previously registered on 14th November 2017 at £288.75 with effect from 9th December 2017 with the Gross Rent stated as being £493.50 per month.
3. The rent was registered by the Rent Officer on the 13th December 2019 at a figure of £291.79 per week with effect from the same date. The Gross Rent is stated as being £495.23 per month.
4. By a letter dated 5th January 2020 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) formerly a Rent Assessment Committee.

Inspection

5. The Tribunal inspected the property on the 16th March 2020. Mr Holloway and Miss Nash were both present. The landlord was not represented.
6. The property is a small two-storey terraced house of brick elevations beneath a tiled roof within a modern development of similar properties on the western outskirts of Cheltenham, about 2 miles from the town centre.
7. The accommodation comprises a living room, kitchen and conservatory at ground level with stairs rising from the living room to a first-floor landing, double bedroom, single bedroom and bathroom with WC.
8. There is a small garden to the rear and two parking spaces to the front of the house.
9. Heating is from electric radiators installed by Mr Holloway. The conservatory was added by a previous tenant. One window is double glazed having been replaced by the tenant who has also upgraded the kitchen units.

Evidence and representations

10. Mr Holloway had made extensive and detailed representations to the Tribunal which included a statement that he had failed to challenge previous rent increases and felt that the rent was now 'out of quilter' with the rents for similar properties. Bromford had made no comment.
11. The tenant is responsible for all repairs and maintenance.
12. The Tribunal had regard to the observations and comments by the parties and relied on its own knowledge and experience of local rental values in determining the rent.

The Law

13. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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.
14. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasised
 - (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).
15. The Tribunal also has to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 where applicable. Most objections and determinations of registered rents are now subject to the Order, which limits the amount of rent that can be charged by linking increases to the Retail Price Index. It is the duty of the Property Tribunal to arrive at a fair rent under section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules of the Order. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rent for the subject property.

Valuation

16. 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 in the condition 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 in the area of Cheltenham and North Gloucestershire. Having done so it concluded that such a likely market rent would be £620 per month for a full 100% share equating to £310 for a 50% share.
17. In such circumstances the tenant would not be responsible for management fees or buildings insurance so these should be deducted from any open market rental comparison.
18. Additionally, the property was not let in a condition considered usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £620 per month particularly to reflect the Tenants' improvements, that the carpets, curtains and white goods were all provided by the Tenants and that the Tenants are responsible for repairs and maintenance which would not be the case for an open market assured shorthold tenancy.
19. The Tribunal therefore considered that this required a total deduction of £150 per month made up as follows:

| | |
|-----------------------------------|----------------|
| No central heating | £50 |
| Provision of carpets and curtains | £10 |
| Provision of white goods | £10 |
| Conservatory | £20 |
| Tenants upgrade to kitchen | £20 |
| Management fees | £29.11 |
| Buildings Insurance | £15.06 |
| Repair and maintenance liability | £50 |
| TOTAL | £204.17 |

20. The Tribunal did not consider that there was any substantial scarcity element in the area of North Gloucestershire.

Decision

21. Having made the adjustments indicated above the fair rent initially determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £415.83 per calendar month equating to £207.92 per month for a 50% share.
22. Added to the rent are the charges for management fees £29.11 per month and building insurance comprising £15.06 per month. Thus, the total rent

shall be £252.09. The fair rent to be registered is not limited on this occasion by the Rent Acts (Maximum Fair Rent) Order 1999 because this is below the previous registered rent.

Accordingly, the sum of £252.09 per month will be registered as the fair rent with effect from the 16th March 2020 this being the date of the Tribunal’s decision.

Chairman: I R Perry FRICS

Dated: 16 March 2020

Appeals

23. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
24. 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.
25. 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.
26. 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.

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 take 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 the permission.