



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

Case Reference : **CHI/00HB/F77/2021/0027**

Property : **First Floor Front Flat
42 Royal York Crescent
Bristol
BS8 4JS**

Landlord : **Ms S Chambers**

Representative : **None**

Tenant : **Ms R Weaver-Tooley**

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 BSc FRICS
Ms C D Barton BSc MRICS
Mr M J F Donaldson FRICS MCI Arb MAE**

**Date and Venue of
Inspection** : **None. Decided on the papers**

Date of Decision : **15th June 2021**

REASONS FOR DECISION

Summary of Decision

On 15th June 2021 the Tribunal determined a fair rent of £565 per month with effect from 15th June 2021.

Background

1. The Landlord had inherited this property from her late father. The Tenant has occupied the property since 27th October 1988. The details of the rental agreement were uncertain.
2. In the Autumn of 2020, the Landlord wrote to the Tenant asking that the rent payable be increased from £600 per month to £648 per month from 1st November 2020.
3. On 10th November 2020 an application was made to the Valuation Office seeking a Fair Rent of £500 per month. The Valuation Office was uncertain whether the tenancy came within its jurisdiction.
4. A Jurisdiction Hearing was held by the Valuation Office, by telephone, on 16th February 2021 when it was decided that the Valuation Office did have jurisdiction to deal with this matter based on the tenancy being subject to a Fair Rent.
5. The Rent Officer also completed a survey sheet based on the information provided by telephone.
6. On 3rd March 2021 the rent was registered by the Rent Officer at a figure of £565 per month with effect from that date.
7. By email 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) formerly a Rent Assessment Committee.
8. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and Tribunal hearings in person until further notice.
9. The Tribunal issued directions on 11th May 2021 informing the parties that the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
10. Both parties submitted detailed papers which were copied to the other party.

The Property

11. The property is described as a first-floor front flat within a period Georgian style terraced house converted some years ago to provide several flats. It is a small Studio style flat with a mezzanine sleeping area within the Living Room accessed by an “unstable staircase”, a Kitchen and Bathroom.
12. The property is situated in a very popular area of Bristol which is close to all main amenities. The flat has a central heating system, permit parking and a narrow balcony with south facing views over the Cumberland Basin on the River Avon in the centre of Bristol.

Evidence and representations

13. The parties explained that the Landlord’s father, who was the Landlord at the time, had carried out some works at the property and had also paid for various materials used by the Tenant who had carried out repairs and made improvements through the long-established tenancy. The Tenant had installed the Kitchen and Bathroom fittings.
14. The Rent officer had established that the Tenant had a strict liability for the internal repair and decoration of the flat.

The Law

15. 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.
16. 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).
17. 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

18. 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 Bristol. Having done so it concluded that such a likely market rent would be £750 per calendar month.
19. However, 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 £750 per calendar month particularly to reflect the Tenants' improvements and the fact that the carpets and curtains were all provided by the Tenant, which would not be the case for an open market assured shorthold tenancy.
20. In addition the Tribunal needed to adjust the theoretical open market rent to take account of the Tenant's liability for internal repairs and decorations, and for the general condition as established by the Valuation Office.
21. The Tribunal therefore considered that this required a total deduction of £185 per month made up as follows:

Tenant's repair and decoration liability	£50
Tenant's carpets and curtains	£25
Tenant's upgrading of kitchen units	£25
Tenant's replacement of bathroom fittings	£50
General condition of building	£35
TOTAL	<hr/> £185

22. The Tribunal did not consider that there was any substantial scarcity element in the area of Bristol.

Decision

23. 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 £565 per calendar month, which confirms the figure set by the Rent Officer.
24. The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because it is the first registration.

Accordingly, the sum of £565 per month will be registered as the fair rent with effect from the 15th June 2021 this being the date of the Tribunal's decision.

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. 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.
3. 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.
4. 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.