



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

Case Reference : **CHI/00HB/F77/2021/0033**

Property : **Garden Flat
23 Apsley Road
Bristol
BS8 2SN**

Landlord : **Mr S Nazim, Mr A Rizvi and S B Rizvi**

Representative : **Cliftons**

Tenant : **Mr M W & Mrs V Cuthbert**

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
Mr S J Hodges FRICS
Mr J S Reichel BSc MRICS**

Date of inspection : **None. Decided on papers.**

Date of Decision : **29th July 2021**

REASONS FOR DECISION

Summary of Decision

On 29th July 2021 Tribunal determined a fair rent of £840 per month with effect from 29th July 2021.

Background

1. On 4th February 2021 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £1,100 per month for the above property.
2. The rent was last registered on the 12th March 2019 at £772 per month following a determination by the First-Tier Property Tribunal.
3. The rent was registered by the Rent Officer on the 27th April 2021 at a figure of £840.50 per month with effect from the same date. The Rent Officer notes that the uncapped rent for the property would have been £850 per month.
4. By an email dated 20th May 2021 the Landlord's Agent 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.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
6. The Tribunal office informed the parties that the Tribunal intended to determine the rent on the basis of written representations subject to the parties requesting an oral hearing. No request was made by the parties for a hearing.
7. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.
8. The parties were invited to include photographs and video within their representations if they so wished. The Landlord's Agent completed a response form which was copied to the Tenants but the Tenants made no representation.

The Property

9. The Tenants have not allowed the Landlord, the Rent Officer, the previous Tribunal nor the Landlord's Agent access to the property. The Rent Officer's decision is based on a survey sheet dated 27th September 1990 which describes the property as a garden flat within a four-storey building which is situated in a popular area of Bristol.
10. The property has its own access at the rear of the building and includes a Living room with bay window, Kitchen, two Bedrooms and Bathroom. There is a small garden and a single garage which is let with the property.

11. The property is described as having damp walls and poor plasterwork with internal decorations shabby. There was an old solid-fuel boiler and a single radiator.
12. This original inspection sheet was updated on 8th June 2012 when the boiler had been replaced with a gas-fired water heater. There remained one radiator said to be in good order.
13. The Rent Officer visited again on 26th October 2016 but was denied access.

Evidence and representations

14. In 2016 the Tenant told the Rent Officer that he had refurbished the Kitchen units. The Rent Register dated January 2019 states that there is no central heating.
15. The Landlord's Agent stated that they had not been allowed access to the property but on their completed Reply Form they state that the property has central heating, double-glazing and that carpets, curtains and white goods are all included in the tenancy.
16. This seems to differ from other information provided which suggests that there may be one radiator.
17. The Landlord's agent believes that the tenancy commenced before 1965 and the agreement includes a provision that the tenant is responsible for internal repairs and decorations.

The Law

18. 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.
19. 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).

20. 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

21. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only, with no oral hearing. Having read and considered the papers it decided that it could do so.
22. Given the history of this case whereby the Landlords, their Agent, the Rent Officer and previous Tribunals have all been refused access, and in the absence of any evidence to show that central heating, double glazing, carpets or curtains had been provided by the Landlord the Tribunal decided to rely on the Survey sheet and comments from the Rent Officer.
23. 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 and that such a likely market rent would be £1,300 per calendar month.
24. 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 £1,300 per calendar month particularly to reflect the Tenants' responsibilities, that the carpets, curtains and white goods were all provided by the Tenants which would not be the case for an open market assured shorthold tenancy.
25. The Tribunal therefore considered that this required a total deduction of £460 per month made up as follows:

Lack of full central heating	£110
Provision of carpets, curtains	£50
Provision of white goods	£50
Unmodernised kitchen	£100
Unmodernised bathroom	£50
Tenant's liability for internal repairs and decorations	£100
TOTAL	£460

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

Decision

27. 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 £840 per calendar month.

28. The Section 70 Fair Rent determined by the Committee is below the maximum fair rent of £862 permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.

Accordingly the sum of £840 per month will be registered as the fair rent with effect from the 29th July 2021 this being the date of the Tribunal's decision.

RIGHTS OF APPEAL

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.