



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

Case Reference : **CHI/43UE/F77/2021/0049**

Property : **Serendipity
Glenfield Close
Brockham
Betchworth
Surrey
RH3 7HS**

Tenant : **Ms J Saunders**

Representative : **None**

Landlord : **Mrs L Cutt**

Representative : **White & Sons**

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

**Date and Venue of
Inspection** : **None. Paper determination**

Date of Decision : **22nd November 2021**

REASONS FOR DECISION

Summary of Decision

On 22nd November 2021 the Tribunal determined a fair rent of £909.50 per month with effect from 22nd November 2021.

Background

1. On 6th August 2021 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £875 per calendar month for the above property.
2. The rent was previously registered on the 29th April 2015 at £722 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 21st September 2021 at a figure of £891.50 per month with effect from the same date.
4. By a letter dated 8th October 2021 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.
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. Representations were made which were copied to both parties.

The Property

9. Within the papers the property is described as a detached Bungalow with accommodation including a Living Room, Kitchen, two Bedrooms, Bathroom, Garage and Garden. It appears to be of traditional construction with central heating and double glazing.
10. The property is situated within a cul-de-sac in a village close to open countryside. There are day to day amenities in the village and further amenities in Dorking, about three miles away.

Evidence and representations

11. The Rent Officer estimates an open market rent of £1250 per month.
12. Ms Saunders occupies the property as a secure tenant by succession. There is no tenancy agreement, so the terms are as set out in statute. The previous registered rent is £722 per month but she says she has been paying £702 per month.
13. The Landlord's Agent suggests an open market rent of circa £1,210 with adjustments totalling £160 to reflect the condition, internal decorating liability and Tenant's provision of carpets and curtains.
14. The submission from the Landlord's Agent also included evidence of comparable properties in the general area which were let, being marketed or had been let through letting agents in that area.
15. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values in determining the rent.

The Law

16. 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.
17. 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).
18. 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

19. 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.
20. 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 East Surrey. Having done so it agreed with the Rent Officer and concluded that such a likely market rent would be £1,250 per calendar month.
21. 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 £1,250 per calendar month particularly to reflect the condition of the property and the fact that the carpets, curtains and white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
22. The Tribunal therefore considered that this required a total deduction of £200 per month made up as follows:

Provision of carpets, curtains	£50
Provision of white goods	£35
Dated bathroom	£30
Dated decoration/Tenant's liability	£50
Dated Kitchen	£35
TOTAL	£200

23. The Tribunal did not consider that there was any substantial scarcity element in the area East Surrey.

Decision

24. 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 £1,050 per calendar month.
25. The Section 70 Fair Rent determined by the Committee is above the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly we determine that the lower sum of £909.50 per calendar month is registered as the fair rent with effect from 22nd November 2021.

Accordingly the sum of £909.50 per calendar month will be registered as the fair rent with effect from the 22nd November 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.