



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

**Case Reference** : **CHI/19UJ/F77/2021/0056**

**Property** : **99 Portland Road  
Weymouth  
Dorset  
DT4 9BG**

**Joint landlords** : **Mr K G & Mrs J A Wright**

**Representative** : **None**

**Tenant** : **Miss W Paul**

**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**

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

**Date of Decision** : **31<sup>st</sup> January 2022**

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**DECISION**

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## **Summary of Decision**

On 31<sup>st</sup> January 2022 the Tribunal determined a fair rent of £155 per week with effect from 31<sup>st</sup> January 2022.

## **Background**

1. On 10<sup>th</sup> September 2021 the Landlord applied to the Rent Officer for registration of a fair rent of £190 per week for the above property. This would equate to £823.33 per month.
2. The rent was previously registered on the 10<sup>th</sup> September 2019 at £135.50 per week following a determination by the Tribunal. This equates to £587.17 per calendar month.
3. Following a consultation by telephone the rent was registered by the Rent Officer on the 26<sup>th</sup> October 2021 at a figure of £150 per week with effect from the 26<sup>th</sup> October 2021. This equates to £650 per month.
4. By a letter dated received by the Rent Officer on 29<sup>th</sup> September 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 and 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**

8. The property is described within the papers as a self-contained ground floor flat within a two-storey purpose-built building comprising a Lounge, Dining Room, Kitchen, two Bedrooms, Bathroom, Conservatory and has a Garden.
9. The property is built of a form of reconstructed stone elevations all beneath a tiled roof. It is situated on a busy but wide road about 500 metres from a beach and 1 ½ miles from the centre of Weymouth. There are local shops within reach of the property and a good range of retail and educational facilities within Weymouth.

10. The accommodation has the benefit of gas-fired central heating.
11. During the telephone consultation with the Rent Officer the Tenant said that the rent is too high, the front door is ill-fitting, there is some damp in the Lounge and main Bedroom, the windows are ill fitting, and she has replaced the gas fire in the Lounge with an electric fire.

### **Evidence and representations**

12. The Tenant maintains that the rent is too high.
13. White goods, curtains and carpets are all provided by the Tenant, the Kitchen is unmodernised and the Tenant is obliged to keep the internal decorations in reasonable order.
14. 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**

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.

**Consideration and decision**

18. 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.
19. 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 around Weymouth and south Dorset.
20. Having done so it concluded that such a likely market rent would be £845 per calendar month.
21. However, the property is 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 £845 per calendar month particularly to reflect 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. Further adjustments should be made to reflect the unmodernised Kitchen and internal dampness.
22. The Tribunal therefore considered that this required a total deduction of £170 per month made up as follows:

Provision of carpets	£35
Provision of curtains	£25
Provision of white goods	£40
Damp issues and mould	£20
Unmodernised Kitchen	£50
<b>TOTAL</b>	<b>£170</b>

23. The Tribunal did not consider that it should make any further reductions in respect of the windows, door and replacement fire.
24. The Tribunal did not consider that there was any substantial scarcity element in the area of Weymouth and south Dorset.

**Decision**

25. 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 £675 per calendar month equating to £155.76 per week.

26. 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 £155 per week is registered as the fair rent with effect from 31<sup>st</sup> January 2022.

**Accordingly, the sum of £155 per week will be registered as the fair rent with effect from the 31<sup>st</sup> January 2022 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](mailto: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.