



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

<b>Case Reference</b>	<b>:</b> <b>CHI/21UH/F77/2022/0009</b>
<b>Property</b>	<b>:</b> <b>160 The Diplocks Hailsham East Sussex BN27 3JZ</b>
<b>Landlord</b>	<b>:</b> <b>Home Group Limited</b>
<b>Representative</b>	<b>:</b> <b>None</b>
<b>Tenants</b>	<b>:</b> <b>Mr S and Mrs M Hayes</b>
<b>Representative</b>	<b>:</b> <b>None</b>
<b>Type of Application</b>	<b>:</b> <b>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.</b>
<b>Tribunal Members</b>	<b>:</b> <b>Mr I R Perry BSc FRICS Mr J S Reichel BSc MRICS</b>
<b>Date of Inspection</b>	<b>:</b> <b>None. Paper determination</b>
<b>Date of Decision</b>	<b>:</b> <b>11<sup>th</sup> May 2022</b>

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**DECISION**

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## **Summary of Decision**

On 11<sup>th</sup> May 2022 the Tribunal determined a fair rent of £877.50 per month with effect from 11<sup>th</sup> May 2022.

## **Background**

1. On 21<sup>st</sup> June 2021 the Landlord Agent applied to the Rent Officer for registration of a fair rent of £830.50 per month for the property, including £13.86 per month for services.
2. The rent was previously registered on the 17<sup>th</sup> November 2017 at £719 per month including £23.70 for services, following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 24<sup>th</sup> September 2021 at a figure of £775 per month including £13.86 for services, with effect from the same date.
4. By a letter dated 4<sup>th</sup> October 2021 the Tenants 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 issued Directions on 18<sup>th</sup> March 2022 informing 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. Other than the comments within the letter of appeal neither party made any such representations.

## **The Property**

9. Within the papers supplied the property is described as an inner-terraced house with modernised accommodation including a Living room, Kitchen, and WC at ground floor level, and three Bedrooms and a Bathroom at first floor level. Outside there is a Car Space and garden.

10. The property is situated in the western side of Hailsham, approximately 400 metres from the town centre. There are day-to-day amenities in the town.

### **Evidence and representations**

11. Neither party had made written representations to the Tribunal so the Tribunal could only rely on the information within the application form and the Rent Officer record sheets. This included notes that the white goods, carpets and curtains were all supplied by the Tenants. The Tenants are also responsible for internal decoration.
12. The Tribunal had regard to that information and also 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. 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.
17. 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 Hailsham and East Sussex. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
18. 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 £1,200 per calendar month particularly to reflect the fact 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. In such a tenancy the Tenants would not be responsible for internal decoration
19. The Tribunal therefore considered that this required a total deduction of £120 per month made up as follows:

Liability for internal decoration	£30
Provision of carpets, curtains	£60
Provision of white goods	<u>£30</u>
TOTAL	£120

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

## **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 £1,080 per calendar month.
22. 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 the lower sum of £877.50 per month including £13.86 for services is registered as the fair rent with effect from 11<sup>th</sup> May 2022, this being the date of the Tribunal's decision.

**Accordingly the sum of £ 877.50 per month will be registered as the fair rent with effect from the 11<sup>th</sup> May 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.