



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

**Case Reference** : **CHI/18UC/F77/2022/0010**

**Property** : **30 Lyncombe Close  
Exeter  
Devon  
EX4 5EJ**

**Landlord** : **Dorrington Queensway Limited**

**Representative** : **Savills**

**Tenant** : **Mr S Bath**

**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  
Mr J S Reichel BSc MRICS**

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

**Date of Decision** : **11<sup>th</sup> May 2022**

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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 £850 per month with effect from 11<sup>th</sup> May 2022.

## **Background**

1. On 6<sup>th</sup> July 2020 the Landlord's Agent at the time, Messrs Allsop, applied to the Rent Officer for registration of a fair rent of £11,433.50 per annum including £895.60 for services. This equates to £952.80 per month including £74.63 per month for the services.
2. The rent was previously registered on the 7<sup>th</sup> September 2018 at £765 per month including £101.52 per month for services.
3. The rent was registered by the Rent Officer on the 11<sup>th</sup> December at a figure of £785 per month with effect from the same date. This includes the sum of £74.63 per week month in respect of services .
4. By a letter dated 24<sup>th</sup> December 2020 the Landlord's present Agent, Messrs Savills, 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. On 28<sup>th</sup> March 2022 the Tribunal office issued Directions 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. No representations were received from either party.

## **The Property**

9. Within the papers the property is described as a house with accommodation including a Living room, Kitchen, Store, three Bedrooms, Bathroom and WC.
10. The property is situated within a cul-de-sac in a small managed estate of similar properties which include some shared gardens and a caretaking

service. The development is about 1 1/2 miles from the centre of Exeter which contains a wide range of amenities and services.

### **Evidence and Representations**

11. Within the original application for a fair rent the Agent at the time, Allsops, argue that Fair Rents lag substantially behind open market rents and suggest that the rent should be increased to the maximum Fair rent available.
12. The Rent Officer's calculation sheet makes deductions from an open market rent to allow for Tenant's provision of carpets, curtains and white goods and an unmodernised Kitchen, and during a telephone consultation with the Rent Officer the Tenant referred to mould growth and mildew.
13. The Tenancy is said to have commenced before 15<sup>th</sup> January 1989.
14. The Tribunal had regard to the information provided 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.

### **Valuation**

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 in the area of Exeter. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
20. 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 Tenant's responsibilities, 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 and the unmodernised Kitchen.
21. The Tribunal therefore considered that this required a total deduction of £350 per month made up as follows:

Provision of carpets and curtains	£60
Provision of white goods	£30
Liability for internal decorations	£30
Unmodernised condition	£180
Dampness causing mould and mildew	£50
<b>TOTAL</b>	<b>£350</b>

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

### **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 £850 per calendar month, including £74.63 for services.

24. The Section 70 Fair Rent determined by the Committee is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999, £909.50 per month, details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.

**Accordingly the sum of £850 per month, including £74.63 for services, 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.