



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

Case Reference : **CHI/29UC/F77/2022/0017**

Property : **7 Clarendon Street
Herne Bay
Kent
CT6 8JX**

Applicant/Landlord : **Earnsdale Properties Ltd**

Representative : **None**

Respondent/Tenant : **Mrs J Morgan**

Representative : **Mr S J Isom**

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 M J F Donaldson FRICS MCI Arb MAE**

Date of Inspection : **None. Determined on the papers**

Date of Decision : **8th June 2022**

DECISION

Summary of Decision

On 8th June 2022 the Tribunal determined a fair rent of £164 per week with effect from 8th June 2022.

Background

1. On 11th January 2022 the Landlord applied to the Rent Officer for registration of a fair rent of £154 per week for the above property. This equates to £667.33 per calendar month.
2. The rent was previously registered on the 19th February 2019 at £152 per week following a determination by the Rent Officer. This equates to £658.67 per calendar month.
3. The rent was registered by the Rent Officer on the 8th March 2022 at a figure of £162 per week with effect from the 8th March 2022. This equates to a figure of £702 per calendar month.
4. By an email dated 23rd March 2022 the Tenant's representative 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 parties were invited to include photographs and video within their representations if they so wished. Representations were made which were copied to both parties.
8. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.

The Property

9. The property is described within the papers as a terraced house dating from before 1918. The accommodation has central heating and comprises two Living rooms, Kitchen and Shower Room with WC all at ground level and two Bedrooms at first floor level. The house has a rendered front elevation and a pitched tiled roof.
10. The property is situated close to the centre of Herne Bay which includes a wide range of shopping, schooling and recreational facilities.

Evidence and representations

11. Mr Isom wrote on behalf of his Mother-in-Law, the Tenant, stating that the Kitchen roof is corrugated asbestos and leaks, and there is an unrepaired hole in the ceiling. He also states that the Kitchen units are old and in poor condition and there are damp marks to the wall in the front Living room.
12. The Tenant's representative also states that a new Bathroom was fitted for the Tenant by Age Concern.
13. The original Tenancy commenced in 1963. Within his calculations the Rent Officer has also made adjustments to an open market rent to reflect this and the Tenant's provision of white goods, carpets and curtains.
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.

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. Open market rentals are almost always quoted in terms of a monthly rental figure. The Tribunal had regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in the area of north Kent. Having done so it concluded that such a likely market rent would be £875 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 £875 per calendar month particularly to reflect the condition of the property, the Tenant's responsibility for internal decoration 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.
21. The Bathroom had been refitted by Age Concern. It is the Tenant who 'qualified' for this benefit and, as such, this is to be regarded as a tenant's improvement.
22. The Tribunal therefore decided that it should make a total adjustment to a full open market rate of £165 per month made up as follows:

Unmodernised kitchen	£50
Unmodernised bathroom	£30
Tenant's provision of carpets	£25
Tenant's provision of curtains	£10
Tenant's provision of white goods	£30
Tenant's responsibility for internal decoration	£20
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TOTAL	£165

23. The Tribunal did not consider that there was any substantial scarcity element in the area of North Kent.

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 £710 per calendar month, equating to £163.85 per week, rounded to £164 per week.

25. 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 details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.
26. The Rent determined is also below the amount of rent requested by the landlord, £154 per week. The Landlord is not obliged to charge this higher rent of £164 per week

Accordingly the sum of £164 per week will be registered as the fair rent with effect from the 8th June 2022, 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.