



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

Case Reference : **CHI/21UH/F77/2022/0022**

Property : **2 Chapel Cottages
Maynards Green
Heathfield
East Sussex
TN21 0DD**

Landlord : **Bradford Property Trust Limited**

Representative : **Grainger Plc**

Tenant : **Mr B Colegate**

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 M J Ayres FRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **29th June 2022**

DECISION

Summary of Decision

On 29th June 2022 the Tribunal determined a fair rent of £191.50 per week with effect from 29th June 2022.

Background

1. On 3rd March 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £201.25 per week for the above property.
2. The rent was previously registered on the 26th May 2020 at £175 per week following a determination by the Rent Officer. This equates to £758.33 per calendar month.
3. The rent was registered by the Rent Officer on the 12th April 2022 at a figure of £180 per week with effect from the 26th May 2022. This equates to a figure of £780 per calendar month.
4. By a letter dated 5th May 2022 the Landlord's Agent 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 that they, the parties were invited to include photographs and video within their representations if they so wished. No further representations were received from either party.

The Property

8. From the information available the property is described as a mid-terraced house built of brick elevations beneath a tiled roof. The property is slightly elevated from the road, adjacent to a primary school situated in the small village of Maynards Green, less than one mile north of the larger village of Horam, in a popular area of East Sussex.
9. There is a junior school in Maynards Green, other local amenities are available in nearby Horam and Heathfield. The main town of Eastbourne is 15 miles to the south and Crowborough about 12 miles to the north.

10. The accommodation is stated as comprising two rooms and a kitchen at ground level, two bedrooms and a bathroom with WC at first floor level and a garden with outside WC. There is no off-road parking
11. The Energy Performance Rating is 'D' and the EPC register states that the property is double-glazed and has gas central heating.

Evidence and representations

12. The Tribunal was provided with a summary sheet from the Rent Officer in addition to the original application for the rent increase. White goods, carpets and curtains are all provided by the Tenant and the kitchen is stated as being unmodernised. The Tenant is responsible for internal repairs and decorations.
13. 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

14. 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.
15. 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).
16. 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

17. 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.
18. It should be noted that most market rentals are quoted, and can best be compared, on the basis of a monthly figure.
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 East Sussex. Having done so it concluded that such a likely market rent would be £1,000 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 £1,000 per calendar month particularly to reflect the evidence supplied by the parties and the Rent Officer, in particular that the carpets, curtains and white goods were all provided by the Tenant, that the kitchen is unmodernised and that the Tenant is responsible for internal repair and decoration which would not be the case for an open market assured shorthold tenancy.
21. The Tribunal therefore considered that this required a total deduction of £170 per month made up as follows:

Provision of carpets	£30
Provision of curtains	£10
Provision of white goods	£30
Unmodernised kitchen	£50
Internal repair and decoration	£50
TOTAL per month	<hr/> £170

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

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 £830 per calendar month, equating to £191.54 per week. This figure is rounded to £191.50.

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 details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.

Accordingly the sum of £191.50 per week will be registered as the fair rent with effect from the 29th 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.