



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

Case Reference : **CHI/00ML/F77/2022/0020**

Property : **Flat 3
59 Ventnor Villas
Hove
East Sussex
BN3 3DB**

Landlord : **Professor L P Lyons**

Representative : **Helen Janes**

Tenant : **Mrs G E Braley**

Representative : **Mr & Mrs F Downs**

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 £601.50 per month with effect from 29th June 2022.

Background

1. On 17th February 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £1,350 per month for the above property.
2. The rent was previously registered on the 18th June 2003 at £317 per month with effect from 9th July 2003 following a determination by the Rent Officer. The Tenant at that time was a Mrs Davidson.
3. The rent was registered by the Rent Officer on the 4th April 2022 at a figure of £576 per month with effect from the 4th April 2022.
4. By an email dated 21st April 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.
8. 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

9. The property is a self-contained first-floor flat within a converted four storey semi-detached Victorian or Edwardian property which appears to be built of solid masonry beneath a pitched and tiled roof. The property is situated in the centre of Hove, approximately 600 metres from the seafront. All main amenities are available within Hove.
10. The accommodation is described as including a Sitting Room, Kitchen, two Bedrooms and a Bathroom with WC. The property is an inner terraced 3 storey dwelling house of brick and stone construction beneath a tiled roof. The property stands flush to the pavement at the front.
11. It is stated that the property has central heating and double glazing.

Evidence and representations

12. The Tenants' representative states that Mrs Braley had originally been a protected Tenant of Flat 2 within 59 Ventnor Villas where a flat roof had been leaking for many years, and that the Landlord's mother agreed for Mrs Braley to move into Flat 3 when that property became vacant in 2003 following the death of Mrs Davison. As a condition of the move Mr Downs redecorated Flat 3.
13. The Rent Officer had previously registered a rent for the property on 18th June 2003.
14. The Rent Officers calculation sheet makes a number of deductions from a market rent to take account of the Tenant's responsibility for internal repair and decoration, Tenant's provision of white goods, floor coverings and curtains, and an unmodernised kitchen.
15. The submission from the Landlord's Agent states that a cooker is provided but no washing machine or fridge, and that carpets are included but not curtains.
16. The Landlord's Agent also provided details of asking rents for comparable properties in the area.
17. The Tenant's representative states that only two small windows are double glazed and that the bath is 70 years old.
18. 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

19. 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.
20. 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).
21. 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

22. 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.
23. 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 Brighton and Hove. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
24. 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 curtains and some white goods are provided by the Tenant, the Tenant's responsibility for internal repair and decoration and the generally unmodernised accommodation.
25. The Tribunal therefore considered that this required a total deduction of £250 per month made up as follows:

Tenant's provision of some white goods	£30
Unmodernised kitchen	£70
Partially modernised bathroom	£30
Tenant's responsibility for internal repair and decoration	£100
Tenant's provision of curtains	£20
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TOTAL per month	£250

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

Decision

27. 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 £950 per calendar month.
28. 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 £601.50 per month is registered as the fair rent with effect from 29th June 2022.
29. The previous registration of rent in 2003 was seemingly made when the property was occupied by a previous tenant named as Mrs W Davidson. However, that registration continues until either there is an application to cancel the registration or the property is let on a new assured tenancy.

Accordingly, the sum of £601.50 per month will be registered as the fair rent with effect from the 29th June 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 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.