



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

**Case Reference** : **CHI/24UJ/F77/2022/0023**

**Property** : **3 Fernside Cottages  
Hyde  
Fordingbridge  
Hampshire  
SP6 2QF**

**Landlord** : **Mr P Gurd**

**Representative** : **None**

**Tenant** : **Mr K Preece**

**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 P E Smith FRICS  
Mr M C Woodrow MRICS**

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

**Date of Decision** : **5<sup>th</sup> July 2022**

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**DECISION**

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## **Summary of Decision**

On 5<sup>th</sup> July 2022 the Tribunal determined a fair rent of £800 per month with effect from 5<sup>th</sup> July 2022.

## **Background**

1. On 2<sup>nd</sup> February 2022 the Landlord applied to the Rent Officer for registration of a fair rent of £800 per month for the above property.
2. The rent was previously registered on the 13<sup>th</sup> January 2017 at £700 per month with effect from the same date following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 21<sup>st</sup> April 2022 at a figure of £765 per month with effect from the same date.
4. By a letter dated 27<sup>th</sup> April 2022 the Landlord 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 issued Directions on 23<sup>rd</sup> May 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. No representations were made by either party.

## **The Property**

9. From the information available the property is said to comprise a mid-terraced Victorian cottage with brick front elevation beneath a pitched tiled roof. It is situated in the village of Hyde about 1 ½ miles southeast of Fordingbridge, within the New Forest National Park. There is a primary school in the village but shopping and other amenities are some miles distant.
10. The accommodation comprises a Living Room, Kitchen, three Bedrooms, Bathroom with WC and has gardens to front and rear.

11. The Rent Officer's calculation sheet makes deductions from a market rent to reflect a lack of central heating, unmodernised accommodation, Tenant's liability for internal decoration and Tenant's provision of carpets, curtains and white goods.

### **Evidence and Representations**

12. Apart from the original application to the Rent Officer and a short letter of appeal from the Landlord, neither party had made any other representation to the Tribunal.
13. The Tribunal was unable to find a registered Energy Performance Certificate for the property.
14. The Tribunal had regard to the observations and comments by the parties including those within the original application and in the brief letter of objection from the Landlord as well as those within the papers received from the Rent Officer 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 South Hampshire. Having done so it concluded that such a likely market rent would be £1,050 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 £1,050 per calendar month particularly to reflect the lack of central heating, unmodernised accommodation, Tenant's liability for internal decoration and Tenant's provision of carpets, curtains and white goods.
21. The Tribunal therefore considered that this required a total deduction of £250 per month made up as follows:

Lack of central heating	£100
Provision of carpets	£30
Provision of curtains	£10
Provision of white goods	£30
Lack of modernisation	£50
Tenant's liability for internal decorations	£30
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TOTAL per Month	£250

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

### **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 £800 per calendar month.
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 £800 per month will be registered as the fair rent with effect from the 5<sup>th</sup> July 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](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.