



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

**Case reference** : **CHI/24UG/F77/2022/0025**

**Property** : **4 Kings Keep, Fleet, Hampshire, GU52 7UW**

**Applicant Tenant** : **Mrs S De Pasquale**

**Representative** : **None**

**Respondent Landlord** : **Bradford Property Trust Ltd**

**Representative** : **Grainger Plc**

**Type of application** : **Determination of the registered rent  
under Section 70 Rent Act 1977**

**Tribunal member(s)** : **Mrs J Coupe FRICS (Chairman)  
Mr M. J. F. Donaldson FRICS MCI Arb MAE  
Mr J Reichel MRICS**

**Date of decision** : **30 July 2022**

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**DECISION**

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### **Covid-19 pandemic: Description of determination**

This has been a remote determination on the papers which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote determination on papers. The documents that the Tribunal were referred to are in an electronic bundle, the contents of which have been noted. The order made is described below.

### **Decision of the Tribunal**

On 30 July 2022 the Tribunal determined that a sum of £2,587.50 per quarter (£199.04 per week) will be registered as the Fair Rent, with effect from the same date.

### **Background**

1. On 11 March 2022, received on the 14 March 2022, the landlord applied to the Rent Officer for registration of a Fair Rent of £220.84 per week (i.e £2,870.92 per quarter) for the above property.
2. On 27 April 2022 the Rent Officer registered a rent of £2,565.00 per quarter (£197.31 per week), effective from 9 June 2022.
3. On 10 May 2022 the landlord objected to the registered rent.
4. The tenancy appears to be a statutory protected periodic tenancy commencing 1 June 1969. No copy of the tenancy agreement was provided. However, the Rent Register records that, subject to Section 11 Landlord and Tenant Act 1985, the landlord is responsible for repairs and external decoration, and the tenant is responsible for internal decoration.
5. On 25 May 2022 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were advised that no inspection would be undertaken. No such objections were received.
6. The Directions required the landlord and tenant to submit their completed statements to the Tribunal by 8 June 2022 and 22 June 2022 respectively, with copies to be sent to the other party.
7. Submissions from the tenant were received by the Tribunal. No submissions were filed on behalf of the landlord.
8. The Tribunal reviewed the submissions and determined that it could fairly and reasonably proceed to a decision on the papers.
9. The matter was determined having regard to the evidence contained in the submissions and application.

### **Law**

10. When determining a Fair Rent the Tribunal, in accordance with section 70 of the Rent Act 1977, must have regard to all the circumstances including

the age, location and state of repair of the property. It also must disregard the effect if any of any relevant tenants' improvements and the effect of any disrepair or any other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.

11. In *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee* (1995) 28HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 the Court of Appeal emphasised:

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 to that of a regulated tenancy, and

That for the purposes of determining the market rent, assured tenancy market rents are usually appropriate comparables; adjusted as necessary to reflect any relevant differences between the comparables and the subject property.

12. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent, less variable service charge, may be increased to a maximum 5.00% plus Retail Price Index since the last registration.
13. Under paragraph 7 of the Order an exemption to this restriction applies where the Landlord proves that repairs or improvements undertaken have increased the rent by at least 15% of the previous registered rent.

### **The Property**

14. As stated, and in accord with current Tribunal policy, the Tribunal did not inspect the property, instead relying on the submissions and viewing the property via online portals.
15. The property is a semi-detached bungalow, believed to have been constructed during the late 1960's, with brick elevations beneath a pitched roof clad in tiles.
16. The property is located within a cul-de-sac of similar age and style properties, close to local amenities. The area is well served by road and rail links including Fleet mainline railway station with services to London Waterloo, and the M3 which is within a short drive, and links to the M25.
17. The accommodation comprises a kitchen; reception room; two bedrooms; bathroom; and separate wc at ground level. The loft, accessed by a loft-ladder, has been boarded out by the tenant for storage and occasional use as accommodation.
18. The property has a garden, garage and off-road parking.
19. The property has gas fired central heating provided by the tenant and full double glazing provided by the landlord.
20. White goods, furniture, carpets and curtains are supplied by the tenant.

21. No service charge or charges for utilities are levied.

### **Submissions – Tenant (summarised)**

22. In written submissions the tenant advised that:
- a. Gas central heating was installed by the tenant in 2006 and a replacement boiler fitted in 2018;
  - b. The landlords' kitchen cabinets are 55 years of age. The tenant undertook some refurbishment during the 1990's, to include replacing the worktop, sink and taps, and retiling the kitchen;
  - c. The landlords' bathroom fittings are approximately 25 years in age and in a reasonable condition. The tenant replaced the taps and re-tiled in 2015;
  - d. The tenant installed a replacement bedroom window in 2007;
  - e. The tenant replaced the original tiled fireplace in 2015;
  - f. In 1992 the tenant, at their expense, boarded out the loft, installed a velux window and fitted insulation;
  - g. The only landlords' improvements, since the tenancy commenced, are the installation of double glazing and an electrical rewire.
23. The tenant accepted the Rent Officers' registered rent of £2,565.00 per quarter (£197.31 per week). No comparable evidence was submitted.

### **Submissions – Landlord (summarised)**

24. No submissions were made to the Tribunal.
25. Within their 'Application for registration of Fair Rent' the landlord notes the property to have a 'loft bedroom (loft ladder)'.

### **Determination**

26. 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.
27. Having considered the tenants' evidence and photographs, the Tribunal is satisfied that the property is a two-bedroom bungalow, as opposed to a three-bedroom bungalow as described by the landlord. The loft has been boarded out and improved at the tenants' expense and the Tribunal has not been provided with any certification to evidence Building Regulation approval.
28. Neither party furnished the Tribunal with any rental evidence, therefore the Tribunal relied on its expertise and own general knowledge of rental values locally. Accordingly, the Tribunal concluded that the likely market rent for the property would be £1,150.00 per month (£265.38 a week).

29. Once the hypothetical rent, in good condition, was established, it was necessary for the Tribunal to adjust the figure to allow for the differences between the terms and condition considered usual for such a letting and the condition of the property at the valuation date, ignoring any tenants' improvements.
30. The Tribunal noted that properties available on the open market were generally modern or modernised, central heated, with white goods, floor and window coverings. In contrast, the kitchen and bathroom of the subject property are dated; central heating was installed by the tenant; maintenance and improvements appear to have been completed by the tenant; and the white goods, carpets and curtains are provided by the tenant. Accordingly, and in reflection of such differences, the Tribunal makes a deduction of 20% from the hypothetical open market rent.
31. Furthermore, the tenant is responsible for the internal decoration of the property, a burden the Tribunal considers to be greater than the normal responsibility for an assured shorthold tenant to keep the landlords' decorations in good order. Accordingly, the Tribunal allows an additional deduction of 5%.
32. Deducting a total of 25%, the Tribunal arrived at an adjusted rent of £862.50 per month (£199.04 per week).
33. The Tribunal then considered the question of scarcity, as referenced in paragraph 11 above and, in arriving at its decision on the point, took into account the following:
  - a. The Tribunal interpreted the 'locality' for scarcity purposes as being the whole area of Fleet (i.e. a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent);
  - b. Availability of property to rent;
  - c. Local Authority and Housing Association waiting lists;
  - d. House and rental prices which could be an indicator of increased availability of housing and a reduction in scarcity;
  - e. Submissions of the parties;
  - f. The members of the Tribunal have, between them, many years of experience of the residential letting market and that experience, coupled with the above, leads them to the view that there is currently no shortage of similar property to let in the locality defined above.
34. Accordingly, the Tribunal made no deduction for scarcity.

### **Maximum Fair Rent**

35. This is the rent calculated in accordance with the Maximum Fair Rent Order, details of which are shown on the rear of the Decision Notice.
36. The Rent Acts (Maximum Fair Rent Order) 1999 restricts the amount by which the rent, less any variable service charge, may be increased, to a maximum 5% plus RPI since the last registration.
37. The only exception to this restriction is provided under paragraph 7 of the

Order where a landlord carries out repairs or improvements which increase the rent by 15% or more of the previous registered rent. The Tribunal determined that such exception does not apply in this instance.

38. The rent to be registered in this application is not limited by the Fair Rent Acts' (Maximum Fair Rent Order) 1999 because it is below the maximum fair rent that can be registered of £2,974.50 per quarter, prescribed by the Order.
39. The Tribunal accordingly determines that the lower sum of £2,587.50 per quarter (£228.81 per week) is registered as the Fair Rent with effect from 30 July 2022, that being the date of the Tribunal's decision. The rent is to be registered as fixed.

### **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.