



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

Case reference : **CHI/00ML/F77/2022/0024**

Property : **18 Circus Parade, New England Road,
Brighton, BN1 4GW**

Applicant Tenant : **Mr D Maddocks**

Representative : **None**

Respondent Landlord : **Periworld Limited**

Representative : **POD Lettings**

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 : **4 August 2022**

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 4 August 2022 the Tribunal determined that a sum of £600.00 per calendar month, (£1,800 per quarter), will be registered as the Fair Rent, with effect from the same date.

Background

1. On 8 March 2022, received on the 10 March 2022, the landlord applied to the Rent Officer for registration of a Fair Rent of £800.00 per month for the above property.
2. On 22 April 2022 the Rent Officer registered a rent of £1,650.00 per quarter, effective the same date (i.e.£550.00 per month).
3. On 6 May 2022 the landlord objected to the registered rent.
4. The tenancy appears to be a statutory protected periodic tenancy commencing 3 June 1967. No copy of the tenancy agreement was provided. However, the Tribunal were advised that the tenant has covenanted to internally decorate.
5. On 24 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 also 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 7 June 2022 and 21 June 2022 respectively, with copies to be sent to the other party.
7. Within their submissions the landlord did not confirm that a copy of their evidence had been provided to the tenant. The tenant subsequently advised the Tribunal that no submissions had been received. Accordingly, the Tribunal granted the tenant seven days within which to make brief representations. None were submitted.
8. The Tribunal reviewed the parties' 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 tenant's 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 parties' evidence and viewing the property via online portals.
15. The property is a first floor self-contained flat situated within a purpose built block, above a parade of shops. There is no lift. The property is positioned close to local amenities and a short distance from Brighton railway station.
16. The accommodation comprises three rooms, these being a living room/bedroom; kitchen; and bathroom. The overall area is quoted by the landlord as 37m². There are no private parking provisions or garage however permit parking is available.
17. The property has double glazing provided by the landlord and electric heating provided by the tenant.
18. White goods, furniture, carpets and curtains are supplied by the tenant.
19. No service charge or charges for utilities are levied.

Submissions – Landlord (summarised)

20. In written submissions the landlord advises that:
 - a. There have been no improvements to the property;
 - b. They are unaware of any disrepair or defects;
 - c. The kitchen and bathroom fittings are twenty years of age;
 - d. Since last registration the property has been decorated externally.
21. In support of the proposed rent of £800.00 per month the landlord refers the Tribunal to a comparable letting of Flat 24 Circus Parade, advising that the property is of equal size to the subject but refurbished within ten years. Let by Massey Property Services, the comparable flat achieved a rental of £940.00 per month however the letting agent considers a current realistic rental to be £1,100.00. No further details were provided.
22. The landlord offers no opinion on whether the property qualifies for an exemption from the Maximum Fair Rent Order.
23. The landlord claims that demand for such properties exceeds supply.

Submissions – Tenant (summarised)

24. The tenant advises that the property has no central heating and that he provides all white goods.
25. According to the tenant, the landlord has carried out the following improvements to the property, although the dates of such works are unknown:
 - a. New double glazing;
 - b. New electric boiler;
 - c. New bathroom sink;
 - d. Rewired;
 - e. Installation of smoke alarm system.
26. Referencing the condition of the property, the tenant notes the following:
 - a. No hot water in the kitchen;
 - b. Kitchen fittings remain as installed in 1967;
 - c. Aside from the basin and toilet cistern, the bathroom fittings have never been updated.
27. In challenging the increased rent, the tenant does not provide any comparable lettings evidence however he advises the Tribunal that other properties within the development have been modernised, whereas the subject property remains as per its original condition.

Determination

28. 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. The Tribunal considered the rental evidence supplied by the landlord, supported by its own general knowledge of rental values locally and concluded that the likely market rent for the property would be £800.00 per month. Such figure is lower than the single comparable

provided in evidence however, and in contrast to the subject property, the landlord notes the comparable's fittings to be ten years old, whilst the tenant comments that other properties within the subject block have been modernised.

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 actual property at the valuation date, ignoring any tenant's improvements, of which there were none.
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 twenty years old, there is no central heating, and 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 greater burden 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 £600.00 per month, equating to £1,800.00 per quarter.
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 Brighton (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 flats 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 £639.50 per calendar month prescribed by the Order.
39. The Tribunal accordingly determines that the lower sum of £600.00 per month (£1,800.00 per quarter) is registered as the Fair Rent with effect from 4 August 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 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.