



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

**Case Reference** : **CHI/00LC/F77/2022/0028**

**Property** : **1 Marshgate Villas  
Main Road  
Cooling  
Rochester  
Kent  
ME3 8DP**

**Landlord** : **Area Estates Ltd**

**Representative** : **Hamways Limited**

**Tenant** : **Mrs S F Bailey**

**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 P E Smith BSc FRICS**

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

**Date of Decision** : **3<sup>rd</sup> August 2022**

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**DECISION**

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### **Summary of Decision**

On 3rd August 2022 the Tribunal determined a fair rent of £700 per month with effect from 3<sup>rd</sup> August 2022.

### **Background**

1. On 1<sup>st</sup> March 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £726 per calendar month for the above property.
2. The rent was previously registered on the 15<sup>th</sup> January 2020 at £613 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 27<sup>th</sup> April 2022 at a figure of £640 per month with effect from the 21<sup>st</sup> May 2022.
4. By a letter dated 19<sup>th</sup> May 2022 the Tenant 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 27<sup>th</sup> June 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. Representations were made by the Tenant which were copied to the Landlord. The Landlord made no further representations.

### **The Property**

9. From the information provided the Property comprises a semi-detached house situated within the hamlet of Cooling which is some 7.5 miles by road north of Rochester. The house is built of brick elevations beneath a tiled roof and is close to Marshgate Farm. There are no shopping or other amenities close-by.
10. The accommodation includes two Living Rooms, a Kitchen and Bathroom with WC at ground level with three Bedrooms at first floor level. Outside there are gardens to front side and rear, with off-road parking for at least two vehicles. Heating is from three night-store heaters.

11. The energy performance rating for the property is 'F'.

### **Evidence and Representations**

12. The original tenancy started 31<sup>st</sup> January 1968. The Tenant provides white goods, carpets, curtains and is responsible for internal decoration.
13. In her letter to the Rent Officer the Tenant describes the Property as being in poor condition with on-going damp issues, no insulation within the walls, heating from three old and inefficient storage heaters, an unsafe path and driveway, cracks around windows, leaking rainwater goods, poor external decoration and no fence to the rear boundary. Some photographs were provided of the external issues.
14. The Tenant also refers to the lack of amenities stating that the nearest Bus Stop is 2.5 miles away.
15. The Rent Officer service provided a screen shot of its calculation of the Fair Rent referring to unmodernised Bathroom and Kitchen and provides a schedule of rents for similar properties in the area between £750 per month and £1,350 per month.

### **The Law**

16. 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.
17. 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).
18. 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**

19. 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.
20. 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 North Kent. Having done so it concluded that such a likely market rent would be £1,050 per calendar month.
21. 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 fact that the carpets, curtains and white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy. Further adjustments should be made to reflect the condition of the Property and the unmodernised kitchen and bathroom.
22. The Tribunal therefore considered that this required a total deduction of £285 per month made up as follows:

Lack of efficient heating system	£50
Tenant's provision of carpets	£30
Tenant's provision of curtains	£15
Tenant's provision of white goods	£30
Tenant's decoration liability	£30
Unmodernised kitchen	£50
Unmodernised bathroom	£30
General condition and some dampness	£50
Poor energy rating	£65
<b>TOTAL DEDUCTION</b>	<b>£350</b>

23. The Tribunal did not consider that there was any substantial scarcity element in the area of North Kent.

### **Decision**

24. 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 £700 per calendar month.
25. 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 £700 per month will be registered as the fair rent with effect from the 3<sup>rd</sup> August 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](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.