



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

**Case Reference** : **CHI/00HN/F77/2022/0030**

**Property** : **Top Flat (Flat 3)  
15 Holdenhurst Road  
Bournemouth  
Dorset  
BH8 8EH**

**Landlord** : **Farnpoint Ltd & Timro Investment Ltd**

**Representative** : **AM Investments**

**Tenant** : **Miss M Peters**

**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 3<sup>rd</sup> August 2022 the Tribunal determined a fair rent of £530 per month with effect from 3<sup>rd</sup> August 2022.

## **Background**

1. On 24<sup>th</sup> March 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £530 per month including £67.40 per month in respect of services.
2. The rent was previously registered on the 24<sup>th</sup> June 2020 at £467 per month including £12.55 per month for services following a determination by the Rent Officer. This equates to a net rent element of £454.45 per month.
3. The rent was registered by the Rent Officer on the 27<sup>th</sup> May 2022 at a figure of £525 per month with effect from the 24<sup>th</sup> June 2022. This includes the sum of £67.40 per month in respect of services. The net rental element is £458 per month.
4. By a letter dated 14<sup>th</sup> June 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 4<sup>th</sup> July 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 which were copied to both parties.

## **The Property**

9. From the information available the Property comprises a third floor converted flat situated above commercial properties within the commercial centre of Bournemouth, a few hundred yards from the main beach.

10. The accommodation includes two rooms, a kitchen and a bathroom with WC. There is no central heating, outside space or parking.

### **Evidence and Representations**

11. The Rent Officer held a telephone consultation with the Parties on 5<sup>th</sup> May 2022. The Tenant stated that there are 65 steps up to her front door, there is some rain penetration to her bathroom through the roof which causes black mould growth, and that the building management agent SPL is billing for some services that are not performed.
12. The main issue raised by the Tenant was in respect of the service charge element of the rent which has risen considerably in recent years. The Rent Officer had considered the calculation of the charge and had concluded that it was reasonable.
13. The Tribunal were provided with the Rent Officer calculation sheet which suggested a full open market rent of £675 per month adjusted by £150 to reflect the Tenant's provision of white goods, carpets and curtains, the Tenant's liability for internal decoration and an unmodernised kitchen.
14. The Landlord provided the Tribunal with a floor plan of the property, photographs and an invoice for a recently replaced washbasin, copies of the service charge account and stated that the carpets and curtains were included. The Landlord states that there is an outstanding repair required on the roof but at present this matter rests with the managing agent.
15. The Tenant states that carpets are included but these are old. The flat has no central heating or double glazing.
16. The property has an energy performance rating 'D'.

### **The Law**

17. 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.
18. 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).
19. 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

20. 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.
21. 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 Bournemouth. Having done so it concluded that such a likely market rent would be £750 per calendar month.
22. 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 £750 per calendar month particularly to reflect the Tenants' provision of white goods and curtains, the old carpets, Tenant's liability for internal decoration, lack of central heating and double glazing and general condition.
23. The Tribunal therefore considered that this required a total deduction of £220 per month made up as follows:

Lack of central heating /double glazing	£50
White goods	£30
Carpets and curtains	£30
Unmodernised kitchen	£50
Tenant's liability for internal decoration	£20
General condition and mould	<u>£40</u>
TOTAL	£220 per month

24. The Tribunal did not consider that there was any substantial scarcity element in the area of Bournemouth.

### **Decision**

25. 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 £530 per calendar month including £67.40 for services.
26. 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, £618.40, details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.

**Accordingly the sum of £530 per month will be registered as the fair rent with effect from the 3<sup>rd</sup> August 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.