



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

**Case Reference** : **CHI/00HB/F77/2022/0033**

**Property** : **Ground & First Floor Flat  
1 Elton Road  
Tyndalls Park  
Bristol  
BS8 1SJ**

**Landlord** : **Bristol Grammar School**

**Representative** : **Temple Homes**

**Tenant** : **Ms J Marvani**

**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 F Donaldson FRICS MCI Arb MAE  
Mrs A Clist MRICS**

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

**Date of Decision** : **7<sup>th</sup> September 2022**

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**DECISION**

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### **Summary of Decision**

On 7<sup>th</sup> September 2022 the Tribunal determined a fair rent of £1,314.50 per month with effect from 7<sup>th</sup> September 2022.

### **Background**

1. On 15<sup>th</sup> February 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £2,400 per month for the above property.
2. The rent was previously registered on the 12<sup>th</sup> August 2016 at £975 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 12<sup>th</sup> April 2022 at a figure of £1,225.25 per month with effect from the same date. This was based on a survey sheet dated 30<sup>th</sup> March 2022.
4. The Tenant objected to the rent determined by the Rent Officer and on the 5<sup>th</sup> July 2022 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 issued Directions on 18<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.
7. The parties were invited to include photographs and video within their representations if they so wished. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.
8. Representations were made by both parties which had been copied to both parties.

### **The Property**

9. From the information available the Property comprises a ground floor flat with additional first floor room within a three-storey converted house situated in a popular residential area opposite Bristol Grammar School, close to the centre of Bristol. All main amenities are available in the City.
10. The accommodation provides a Living Room, Kitchen/Diner, Shower Room and WC at ground level together with a first floor Living Room/Bedroom and a Shower Room. Outside there is a private Garden, parking space and double Garage.

11. There is a common Entrance Hall which gives access to the ground floor accommodation. The first-floor rooms are accessed via a common staircase and first floor landing. The accommodation has gas-fired central heating, the Energy Performance Rating is 'D'.

### **Evidence and Representations**

12. Within the application form the Landlord's Agent states that the carpets and cooker are provided by the Landlord, that the Tenant has made "lots of decorative improvements", that the Landlord has carried out some redecoration, that the outside is scheduled for redecoration in 2023, that the kitchen and bathroom fittings are finished to a good standard and that there are outstanding repair issues to the garden decking and garage doors.
13. The Tenancy began on 20<sup>th</sup> April 2011.
14. The Landlord's Agent provided internal and external photographs of the property and evidence of other properties available to rent in the area ranging from £1,700 per month to £3,000 per month. The Landlord's Agent also accepts that the Fair Rent Order should apply to the property.
15. The Tenant refers to repairs needed to the decking, garage doors, window frames and provided photographs in support of her comments.

### **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 in this popular part of Bristol, 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 this area of Bristol where late night noise disturbance is not uncommon. Having done so it concluded that such a likely market rent would be £2,500 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 £2,500 per calendar month particularly to reflect the fact that the accommodation is disjointed, a washing machine and refrigerator are not provided, that the curtains are provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
22. There are also some outstanding external repair issues.
23. The Tribunal therefore considered that this required a total deduction of £380 per month made up as follows:

Tenant's provision of fridge and washing machine	£20
Tenant's provision of curtains	£10
Separated access to first floor accommodation	£300
Disrepair to decking and garage	£50
TOTAL per month	<u>£380</u>

24. The Tribunal did not consider that there was any substantial scarcity element in Bristol.

**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 £2,120 per calendar month.
26. The Section 70 Fair Rent determined by the Tribunal is above 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 we determine that the lower sum of £1,314.50 per month is registered as the fair rent with effect from 7<sup>th</sup> September 2022.

**Accordingly, the sum of £1,314.50 per month will be registered as the fair rent with effect from the 7<sup>th</sup> September 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.