



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

**Case Reference** : **CHI/29UE/F77/2022/0037**

**Property** : **Captain Jan  
54 Granville Road  
St. Margarets Bay  
Dover  
Kent  
CT15 6DT**

**Applicant/Landlord** : **Rebecca Simcox**

**Representative** : **None**

**Respondent/Tenant** : **Mrs R Nicol**

**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 J S Reichel BSc MRICS  
Mr M C Woodrow MRICS**

**Date of Hearing** : **8<sup>th</sup> November 2022 via remote CVP**

**Date of Decision** : **8<sup>th</sup> November 2022**

---

**DECISION**

---

## **Summary of Decision**

On 8<sup>th</sup> November 2022 the Tribunal determined a fair rent of £202 per week with effect from 8<sup>th</sup> November 2022.

## **Background**

1. On 20<sup>th</sup> April 2022 the Landlord applied to the Rent Officer for registration of a fair rent of £200 per week for the above property.
2. The rent was last registered on the 6<sup>th</sup> March 2020 at £165 per week following a determination by the Rent Officer. This equates to £715 per calendar month.
3. The rent was registered by the Rent Officer on the 27<sup>th</sup> July 2022 at a figure of £170 per week with effect from the same date. This equates to a figure of £736.66 per calendar month.
4. By a letter dated 23<sup>rd</sup> August 2022 the Landlord 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 informed 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 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.
9. The Landlord requested a hearing take place which was held via CVP link on 8<sup>th</sup> November 2022. The Tenant did not wish to take part in the hearing.

## **The Property**

10. From the information provided by the parties and available on the internet the property is a non-traditional detached 'Colt' Bungalow built in 1962 of timber frame construction with shiplap timber elevations beneath a tiled roof, situated in the small village of St Margarets Bay, approximately 2.25 miles northeast of Dover.

11. The property enjoys sea views in an exclusive area that is within the Kent Heritage Coast Area of Outstanding Natural Beauty.
12. The accommodation includes a Hall with WC off, large Living/Dining/Study Room, Kitchen, two Bedrooms and a Bathroom with WC. Outside there are gardens and a driveway with parking.
13. Doors and windows are double-glazed, there is gas-fired central heating, the electrical wiring has been renewed, the walls and roof space have been insulated. Broadband connection is said to be good.

### **Evidence and Representations**

14. A hearing was held on 8<sup>th</sup> November 2022 at which oral representations were made by the Landlord. The Tenant was not present or represented but had written to the Rent Officer on 21<sup>st</sup> June 2022 stating that she had occupied the property since 1964 and she considered Mrs Simcox to be 'a most considerate and thoughtful Landlady'. For her part Mrs Simcox was very complimentary about Mrs Nicol as a Tenant.
15. Mrs Simcox had made written representations to the Tribunal which she helpfully summarised for the Tribunal at the hearing. She had purchased the property, which is adjacent to her own home, in 2006 subject to the tenancy of Mrs Nicol which had commenced in 1964.
16. Mrs Simcox explained that the central heating had been installed in 2008 with the aid of a grant to Mrs Nicol but that she had taken responsibility for the maintenance of the system which had developed some faults in recent years.
17. Mrs Simcox confirmed that the kitchen fittings and white goods had been provided by the Tenant who was also responsible for internal decoration and repair and that the bathroom fittings date from 1964. She also confirmed that the floors throughout the property were cork surfaced, except for the tiled bathroom, and that Mrs Nicol has chosen to have carpets fitted over the cork in the bedrooms.
18. Mrs Simcox provided evidence of other properties available to rent in the general area of south Kent and informed the Tribunal of the letting of a property opposite Captain Jan which had been let recently for £1,800 per month.

### **The Law**

19. 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.

20. 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).
21. 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.
22. The only exceptions to this are where there is a first registration of rent or where a landlord has carried out improvements to the property which would increase the rent by more than 15% since the last registration.

### **Valuation**

23. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted and with a remote video hearing. Having read and considered the papers it decided that it could do so.
24. 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, that is an Assured Shorthold Tenancy. 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 south Kent. Market rentals are usually expressed as a monthly figure. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
25. 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 £1,200 per calendar month particularly to reflect the installation of gas-fired central heating which is defined as a Tenants'

improvement, the Tenant's responsibility for internal repair and decoration, the unmodernised kitchen and bathroom and the fact that the white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.

26. The Tribunal therefore considered that this required a total deduction of £325 per month made up as follows:

Tenant's provision of central heating (via grant aid)	£120
Tenant's repair and decoration liability	£45
Tenant's provision of white goods	£30
Unmodernised bathroom and kitchen	£100
Lack of or Tenant's provision of carpets and curtains	£30
TOTAL per month	<hr/> £325

27. Following the precedent set by *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 Tribunal interpreted the locality for 'scarcity' as the area of south Kent.

28. Having searched the area of south Kent via the internet for properties to rent and relying on the Tribunal's own knowledge and experience the Tribunal did not consider that there was any substantial scarcity within the wider area and accordingly made no deduction for scarcity.

### **Decision**

29. Having made the adjustment of £325 per month indicated above the fair rent initially determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £875 per calendar month which equates to £201.92 per week, rounded to £202 per week.
30. The Section 70 Fair Rent determined by the Tribunal is slightly 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 and we determine that the lower sum of £202 per week is registered as the fair rent with effect from 8<sup>th</sup> November 2022.

**Accordingly, the sum of £202 per week will be registered as the fair rent with effect from the 8<sup>th</sup> November 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.