



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

Case Reference : **CHI/45UC/F77/2022/0039**

Property : **37 Ockley Road
Bognor Regis
West Sussex
PO21 2HW**

Landlord : **A N, P J, V & R J J Whall**

Representative : **None**

Tenant : **Mr & Mrs J Puttick**

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
Mrs J Coupe FRICS
Mr M Jenkinson**

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

Date of Decision : **17th November 2022**

DECISION

Summary of Decision

On 17th November 2022 the Tribunal determined a fair rent of £188 per week with effect from 17th November 2022.

Background

1. On 6th July 2022 the Landlords applied to the Rent Officer for registration of a fair rent of £275 per week for the above property. This would equate to £1,191.66 per calendar month.
2. The rent was previously registered on the 3rd September 2020 at £170 per week following a determination by the Rent Officer. This equates to £736.66 per calendar month.
3. The rent was registered by the Rent Officer on the 31st August 2022 at a figure of £180 per week with effect from the 13th September 2022. This equates to a figure of £780 per calendar month.
4. By a letter dated 14th September 2022 the Landlords 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 18th October 2022 informing the parties that the Tribunal intended to determine the rent based on 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 is a flush fronted inner terrace house near the centre of Bognor Regis about 500 metres from the seafront. There is a reasonable range of amenities in the town.

10. The accommodation includes a Living Room, Kitchen, 2 bedrooms and a Bathroom with WC. There is a garden to the rear. There is gas-fired central heating and double-glazed windows.

Evidence and representations

11. The Tenancy is said to have commenced on 21st January 1983.
12. The Landlords submitted details of rents for similar properties in the range £253-£323 per week and request a new rent of £275 per week.
13. The Landlords state that the Rent Officer has made deductions from a market rent to reflect improvements made by the Tenant and the standard of internal repair and decoration the Tenant has achieved, but that the rent should be reviewed on “the ASSUMPTION that the tenant has complied with their internal repairing and decorating obligations in respect of which a discount has been applied upon each review”, and that “it follows The Rent Officer has been wrong to make an arbitrary percentage reductions to the open market rent assessed by reference to comparables because he assumed those comparables are presented to let in a better state of repair and decoration”.
14. The Landlords also state that “REPAIRS and IMPROVMENTS and DECORATION must be DISREGARDED IF they are carried out as a condition or obligation resulting from an incentive or rental deduction made by the Landlord to the Tenant. It now seems highly likely that the low rent of £70 per week payable in 2000 reflected such an agreement made some time after the Shorthold Tenancy commenced in 1983”. No evidence is provided to support this.
15. The Landlords maintain that any improvements made to a property by the Tenant which are discounted from a full rent vest in the Landlord after 21 years. They also maintain that there is no scarcity in the area, and do not know who paid for the double-glazed windows. The Landlords also acknowledge that the rent will be subject to the Rent Acts (Maximum Fair Rent) Order 1999
16. The central heating was installed by the Tenant in 2003. Carpets curtains and white goods are all supplied by the Tenant.
17. The Tenant states that the double glazing was installed at his cost.

The Law

18. 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.

19. 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).
20. 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

21. 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.
22. 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 good condition that is considered usual for such an open market letting. It should be noted that market rents are most usually quoted per calendar month. The Tribunal 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 Hampshire. Having done so it concluded that such a likely market rent would be £1,100 per calendar month.
23. 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 £1,100 per calendar month particularly to reflect the Tenant's improvements and the fact that the carpets, curtains and white goods were all provided by the Tenant and that the Tenant is responsible for internal decoration, which would not be the case for an open market assured shorthold tenancy.

24. There is no time limit for the cost of any Tenant's improvements to be disregarded, as was suggested by the Landlords.
25. The Tribunal therefore considered that the open market rent of £1,100 per month should be adjusted by a total deduction of £285 per month made up as follows:

Tenant's provision of central heating	£100
Tenant's provision of double glazing	£50
Tenant's provision of carpets	£30
Tenant's provision of curtains	£15
Tenant's responsibility for internal decoration	£30
Tenant's provision of white goods	£30
Unmodernised kitchen	<u>£30</u>
TOTAL per month	£285

26. The Tribunal did not consider that there was any substantial scarcity element in the area of West Sussex.

Decision

27. 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 £815 per calendar month equating to £188 per week.
28. The Section 70 Fair Rent determined by the Tribunal 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 £188 per week will be registered as the fair rent with effect from the 17th November 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 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.