



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

Case Reference : **CHI/00ML/F77/2022/0044**

Property : **Flat 19
Eaton Manor
The Drive
Hove
BN3 3PT**

Applicant Landlord : **Eaton Manor Hove Ltd**

Representative : **Savills (UK) Ltd**

Respondent Tenant : **Mr J Nagioff**

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 FRICS
Mr M J Ayres FRICS
Mrs A Clist MRICS**

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

Date of Decision : **26th January 2023**

DECISION

Summary of Decision

On 26th January 2023 the Tribunal determined a fair rent of £14,400 per annum including a variable service charge, with effect from 26th January 2023. This equates to £1,200 per month including services.

Background

1. On 30th August 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £13,497.60 per annum plus £2,534.13 per annum as a variable service charge, a total of £16,031.73 per annum which equates to £1,335.98 per month.
2. The rent was previously registered on the 12th October 2020 at £12,840 per annum, which equates to £1,070 per month, following a determination by the Rent Officer. This rent included £419.17 per annum for heating, equating to £34.93 per month, and £1,592.22 attributable to services equating to £132.69 per month.
3. The rent was registered by the Rent Officer on the 17th October 2022 at a figure of £13,440 per annum with effect from the 31st October 2022 which equates to £1,120 per month. This new rent included £356.22 per annum for heating, equals £29.69 per month, and £1,751.44 per annum for services which equates to £145.95 per month.
4. By a letter dated 14th November 2022 the Landlord's Agent 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 unless specifically requested by either of the parties.
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. No request was made by the parties for a hearing.
7. The parties were invited to include photographs and video within their representations if they so wished and informed that that the Tribunal might also consider information about the property available on the internet.
8. Representations were made by the Landlord's Agent which were copied to the Tenant but no representation was made by the Tenant.

The Property

9. The property is described as a self-contained flat situated on the 4th floor of a purpose-built block of flats of some 146 units built between 1965 and 1980, with a floor area of 95 square metres. The flat has full central heating and double glazing to accommodation comprising three rooms, a kitchen, bathroom with WC and shower room with WC. It is stated that there is off-street parking and permit parking available.
10. The property is within a mainly residential area about 750 metres from the seafront, close to Hove railway station and within reach of all main amenities.

Evidence and Representations

11. The submission from the Landlord's Agent states that no white goods are provided by the Landlord, carpets and curtains are included and that the Kitchen and Bathroom include "original features".
12. The Tribunal was provided with a copy of the Lease expenditure account, although this did not say how this was divided between the individual flats.
13. The Landlord's Agent stated that the central heating and hot water are from a communal system and that the Tenant has the right to park in one of the unallocated parking spaces if vacant.
14. The Agent also provided evidence of three recent open market lettings at rents between £17,604 per annum, £1,467 per month, and £21,300 per annum, £1,775 per month. These flats are between 77 sq.m. and 112 sq.m, whilst Flat 19 is said to be 95 sq.m.
15. The Agent also states that there is no scarcity of properties available to let in the general area.
16. The Tenant is responsible for interior decoration and provides white goods.

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 Brighton and Hove where market rents are generally expressed in terms of a monthly rent. Having done so it concluded that such a likely market rent would be £1,400 per month including the services provided. This equates to £16,800 per annum.
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 £1,400 per month particularly to reflect the Tenants' provision of white goods, the dated original features within the Kitchen and Bathroom and the Tenant's decorating liability.
23. The Tribunal therefore considered that this required a total deduction of £200 per month made up as follows:

Provision of white goods	£30
Dated Kitchen and Bathroom	£150
Decorating liability	£20

TOTAL per month

£200

24. The Tribunal did not consider that there was any substantial scarcity element for 2 bedroom flats in the Brighton and Hove area.

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 £1,200 per calendar month including services which equates to £14,400 per annum including services.
26. 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.
27. The registered rent is to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s71(4)).

Accordingly the sum of £14,400 per annum including services will be registered as the fair rent with effect from the 26th January 2023, 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 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.