



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

Case Reference : **CHI/45UH/F77/2023/0001**

Property : **35 Southview Gardens
Worthing
West Sussex
BN11 5JA**

Applicant Landlord : **Mr B Dodd**

Representative : **DFC Property Management Ltd**

Respondent Tenant : **Miss M Jacobs**

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
Judge Whitney
Mrs A Clist MRICS**

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

Date of Decision : **6th February 2023**

DECISION

Summary of Decision

On 6th February 2023 the Tribunal determined a fair rent of £2,700 per quarter with effect from 6th February 2023. This equates to £900 per month.

Background

1. On 28th September 2022 the Landlord's Agent applied to the Rent Officer for registration of a new fair rent of £3,750 per quarter which equates to £1,250 per month.
2. The rent was last registered on the 7th August 2006 at £1,480.50 per quarter, which equates to £493.50 per month, following a determination by the Rent Officer. This rent took effect from 19th September 2006.
3. The rent was registered by the Rent Officer on the 14th November 2022 at a figure of £2,657.50 per quarter with effect from the same date. This equates to £885.66 per month.
4. By a letter dated 7th December 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 party.
6. The Tribunal office issued Directions on 9th January 2023 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 parties were invited to include photographs and video within their representations if they so wished and were informed 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 purpose-built ground floor flat. It is within a 2-storey block of 4 properties in a residential area about 500 yards from the seafront in Worthing. There is a good range of amenities within reasonable distance.
10. The accommodation is stated to comprise 4 rooms together with a Kitchen, Bathroom and WC. There is a garage and use of the front garden. The property has double glazed windows and central heating.

Evidence and Representations

11. The original tenancy for the property commenced on 16th July 1964 between Dawes and Company (Mitcham Limited) and William Ronald Jacobs.
12. The Tribunal was informed that the Tenant uses one room of the four as a living room, one as a dining room and two rooms as bedrooms.
13. The Rent Officer had assessed the open market rent for the property to be £3,450 per quarter, equating to £1,150 per month. The Landlord's Agent suggested that a market rent would be £1,250 to £1,450 per month and provided details of two properties available to rent at £1,495 per month.
14. The Tribunal was told that the central heating was installed by the Tenant, that she had replaced the original bath with a walk-in shower, had installed some additional kitchen cupboards and that she provides the white goods.
15. The Landlord's Agent states that carpets and curtains are provided by the Landlord but the Tenant states that she provides carpets and curtains. The Tenant is responsible for internal decorations.
16. The Tribunal was also provided with a surveyor's report which stated that there is dampness in the two rooms used as bedrooms with some resultant mould growth. The report contained useful photographs which showed the dated nature of the kitchen and bathroom fittings, curtains and carpets.
17. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values in determining the rent.

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. The Tribunal had to decide whether the carpets and curtains were provided by the Landlord or Tenant. Given that the Lease had first commenced nearly 60 years ago the Tribunal decided that it was most likely that it is the Tenant who is responsible for them.
23. 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. Open market rentals are usually expressed as a monthly figure. 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 Brighton and Worthing. Having done so it concluded that such a likely market rent would be £1,175 per calendar month.
24. 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 £1,175 per calendar month particularly to reflect the Tenant's improvements and responsibility for internal decoration. Further adjustments should be made to reflect the dated kitchen and bathroom fittings, carpets, curtains and that the white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
25. The Tribunal therefore considered that this required a total deduction of £275 per month made up as follows:

Tenant's provision of central heating	£100
Dated kitchen and bathroom fittings	£100
Tenant's provision of white goods	£30
Tenant's responsibility for internal decoration	£30

Carpets and curtains	£15
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TOTAL per month	£275

26. Once these adjustments have been made the rent reduces to £900 per month which equates to £2,700 per quarter.
27. The Tribunal did not consider that there was any substantial scarcity element in the area of Brighton and Worthing.

Decision

28. 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 £2,700 per quarter.
29. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £2,737 per quarter 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 £2,700 per quarter will be registered as the fair rent with effect from the 6th February 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.