



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

Case Reference : **CHI/00MS/F77/2023/0002**

Property : **74 Clovelly Road
Southampton
Hampshire
SO14 0AU**

Applicant Landlord : **The Hyde Group**

Representative : **None**

Respondent Tenants : **D Raj & A Dalvair**

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 Dobson
Mr J S Reichel MRICS**

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

Date of Decision : **27th February 2023**

DECISION

Summary of Decision

On 27th February 2023 the Tribunal determined a fair rent for of £204 per week with effect from 27th February 2023. This equates to £884 per calendar month.

Background

1. On 26th August 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £127.77 per week. This would equate to £553.67 per calendar month.
2. The rent was previously registered on the 16th January 2020 at £159 per week equating to £689 per month. The Landlord has only been collecting £117.90 per week, equating to £510.90 per month.
3. The rent was registered by the Rent Officer on the 18th November 2022 at a figure of £170 per week including £0.01 service charge. This equates to £736.67 per month including the service charge.
4. By a letter received by the Valuation Officer on 13th December 2022 the Tenants 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 Tribunal does not consider it necessary and proportionate in cases of this nature to undertake inspections or hold Tribunal hearings unless either specifically requested by either party or a particular point arises which merits such an inspection and/ or hearing.
6. The Tribunal office issued Directions on 20th January 2023 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 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 which were copied to the Tenants, but no representation was made by the Tenants.

The Property

9. From the information provided and available on the internet the property is described as a two-storey terraced house with accommodation comprising a reception room, kitchen, 3 bedrooms and a bathroom/WC. The property is situated in a residential area about 1½ miles from the centre of Southampton, within reasonable distance of all main amenities including a Railway Station.

10. The property has gas-fired central heating and double-glazed windows. A permit parking scheme operates in the area.

Evidence and representations

11. The Landlord states that all white goods, carpets and curtains are provided by the Tenants. The Landlord also states that a new bathroom was installed in 2020/2021, a new kitchen was installed in 2011/2012, a new boiler installed in 2015/2016, and that external decoration were last completed in 2016/2017.
12. The Rent Officer indicates that the Tenants are responsible for internal decoration.
13. The submission from the Landlord also included evidence of comparable properties in the general area which suggest an average open market rent of £326 per week.
14. 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

15. 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.
16. 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).
17. 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

18. 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.
19. 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 normally 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 the area of Southampton. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
20. However, the property was not let in a condition considered usual for a modern letting at a market rent and it was first necessary to adjust that hypothetical rent of £1,200 per calendar month particularly to reflect the Tenants' provision of white goods, carpets and curtains, the Tenants' responsibility for internal decorations and the dated kitchen fittings.
21. The Tribunal therefore considered that this required a total deduction of £225 per month made up as follows:

Tenants' provision of carpets	£50
Tenants' provision of curtains	£20
Tenants' provision of white goods	£30
Tenants' responsibility for internal decorations	£50
Dated kitchen	£75
	—————
TOTAL per month	£225

22. The Tribunal did not consider that there was any substantial scarcity element in Southampton.

Decision

23. 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 £975 per calendar month which equates to £225 per week.
24. 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 £204 per week is registered as the fair rent with effect from 27th February 2023.

25. It should be noted that the Landlord is not obliged to charge the full amount of this rent.

Accordingly, the sum of £204 per week will be registered as the fair rent with effect from the 27th 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.