



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

Case Reference : **CHI/00HN/F77/2023/0005**

Property : **61 Victoria Road
Bournemouth
Dorset
BH1 4RT**

Applicant Landlord : **WCR Management Ltd**

Representative : **Abbey Estates**

Respondent Tenant : **J & C Spencer-Smith**

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 S J Hodges FRICS
Mr P E Smith FRICS**

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

Date of Decision : **22nd March 2023**

DECISION

Summary of Decision

On 22nd March 2023 the Tribunal determined a fair rent of £694 per month with effect from 22nd March 2023.

Background

1. On 2nd November 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £1,250 per month.
2. The rent was previously registered on the 9th November 2020 at £537 per month following a determination by the Rent Officer. The uncapped rent would have been £835 per month.
3. The Rent Officer held a consultation at the Property on 8th December 2022 and the rent was then registered by the Rent Officer on the 21st December 2022 at £679 per month with effect from the same date. The uncapped rent would have been £920 per month.
4. By a letter dated 5th January 2023 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. On 10th February 2023 the Tribunal office issued Directions 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 Tenants which were copied to the Landlord.

The Property

9. The property is described as detached house built before 1918 with accommodation including a Living/Dining Room, Kitchen, 3 Bedrooms, Boxroom, Shower Room, Gardens and Parking.
10. The property is within a residential area about 1 mile from Bournemouth Beach. All main amenities are available within the town.

Evidence and representations

11. A Summary of Consultation prepared by the Rent Officer lists a number of repairs required, including some dampness in the Living Room and rear Bedroom around a chimney breast, a leak above the back door, broken fence panels and a failed Bathroom door lock.
12. The Tenants state that they supplied central heating, double glazing, carpets, curtains and white goods. In addition, they refitted the Shower Room. They suggest that the rent should be £580 per month,
13. The Tenants also state that they have made further improvements including rewiring the property throughout, insulated the roof space, removed a chimney breast in Dining Room, reopened a fireplace in Living Room, fitted double glazing, refitted the Kitchen, replaced doors damaged by woodworm, and that they keep the property in good decorative order.
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. 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 Bournemouth. Having done so it concluded that such a likely market rent would be £1,500 per calendar month.
20. 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 £1,500 per calendar month particularly to reflect the Tenants' improvements and the fact that the carpets, curtains and white goods were all provided by the Tenants which would not be the case for an open market assured shorthold tenancy.
21. The Tribunal therefore considered that this required a total deduction of £570 per month made up as follows:

Tenant's central heating	£150
Tenant's white goods	£30
Tenant's double glazing	£100
Tenant's carpets and curtains	£50
Fence repairs required	£20
Tenant's rewiring	£100
Tenant's insulation	£20
Tenant's fitted kitchen	£50
General repairs including water penetration	£50

TOTAL per month	£570

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

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 £930 per calendar month.
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 £694 per month is registered as the fair rent with effect from 22nd March 2023.

Accordingly the sum of £694 per month will be registered as the fair rent with effect from the 22nd March 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.