



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

Case Reference : **CHI/00ML/F77/2023/0006**

Property : **76 Trafalgar Road
Portslade
Brighton
BN41 1GR**

Applicant Landlord : **Mountview Estates Plc**

Representative : **None**

Respondent Tenant : **Mrs A Mercer**

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 J S Reichel MRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **4th April 2023**

DECISION

Summary of Decision

On 4th April 2023 the Tribunal determined a fair rent of £800 per month with effect from 4th April 2023.

Background

1. On 22nd November 2022 the Landlord applied to the Rent Officer for registration of a fair rent of £892 per month.
2. The rent was previously registered on the 6th January 2021 following a determination by the Rent Officer at £717 per month..
3. The rent was registered by the Rent Officer on the 9th January 2023 at a figure of £850 per month with effect from the 15th February 2023
4. By a letter dated 15th January 2023 the Tenant 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 are 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 10th February 2023 which 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 were informed that the Tribunal might also consider information about the property available on the internet.
8. Representations were made by both parties which had been copied to the opposing party.

The Property

9. The property is described as a maisonette within a converted 3-storey mid terraced house. The accommodation is said to comprise a Lounge and Kitchen on the ground floor with 2 Bedrooms and a Bathroom with WC on the first floor. The property has partial double glazing and central heating.
10. The property is situated in a popular area of West Brighton with all main amenities within reasonable distance. The Energy performance rating is 'C'.

Evidence and representations

11. The Tenant states that she has lived at the property since 1980/81, that no white goods, carpets or curtains are provided by the Landlord and that there is no parking provision. She is responsible for internal decoration.
12. The Tenant also refers to damp issues in the back wall of the Kitchen and Bathroom and provides photographs to show the damaged internal plasterwork and decorations with attendant black mould growth. She says that this has been an issue for more than 3 years.
13. Within the Application the Landlord states that the tenancy began on 31st October 1988.
14. The Landlord wrote to the Tribunal on 13th February 2023 stating that the rent determined by the Rent Officer was accepted and provided no evidence of any improvements to the property.
15. Neither party referred to any comparable rents in the area so the Tribunal could only rely on its own knowledge and experience of local rental values in determining the rent.

The Law

16. 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.
17. 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).
18. 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

19. 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.
20. 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. Having done so it concluded that such a likely market rent would be £1,250 per calendar month.
21. However, the property was not let in a condition considered usual for a modern letting at a market rent and it was therefore necessary to adjust that hypothetical rent of £1,250 per calendar month particularly to reflect the Tenants provision of white goods, carpets and curtains.
22. Further adjustments should be made to reflect the Tenant's decoration liability, the damp issues and the dated nature of kitchen and bathroom fittings.
23. The Tribunal therefore considered that this required a total deduction of £450 per month made up as follows:

Tenant's provision of white goods	£30
Tenant's provision of curtains	£20
Tenant's provision of carpets	£60
Tenant's liability for internal decoration	£40
Disrepair due to damp	£100
Dated kitchen and bathroom fittings	£200
	—————
TOTAL per month	£450

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

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 £800 per calendar month.

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.

Accordingly, the sum of £800 per month will be registered as the fair rent with effect from the 4th April 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.