



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

Case Reference : **CHI/24UP/F77/2023/0014**

Property : **1 Harvest Gate Cottages
Stocks lane
Meonstoke
Southampton
Hampshire
SO32 3NQ**

Applicant Landlord : **Executor of the late P V Lawford**

Representative : **BCM LLP**

Respondent Tenant : **Mrs S C Stiles**

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 M C Woodrow MRICS**

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

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

DECISION

Summary of Decision

On 4th May 2023 the Tribunal determined a fair rent of £172 per week with effect from 4th May 2023.

Background

1. On 19th March 2023 the Landlord's Agent submitted an application dated 18th March 2023 to the Rent Officer for registration of a fair rent of £760 per month which would equate to £175.38 per week.
2. The rent was previously registered on the 29th April 2004 at £100 per week which equates to £433.33 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 7th February 2023 at a figure of £175 per week with effect from the 7th February 2023. This rent equates to £758.33 per month.
4. By a letter dated 3rd March 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 the parties or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal office issued directions on 28th March 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. Both 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 pre-1918 semi-detached house with accommodation comprising a Living Room, Kitchen, Bathroom with WC all at ground level and 3 Bedrooms at first floor level.
10. Outside there is off-street parking, a Shed and Gardens.
11. The house is situated in a rural area 16 miles north-east of Southampton and 15 miles north of Portsmouth. There are no amenities nearby.

Evidence and Representations

12. Mrs Stiles first occupied the property as a joint Tenant with her late husband Mr E W Stiles about 50 years ago. Her occupation is now by way of a statutory tenancy under the Rent Act (Agriculture) Act 1976. The Tribunal noted that the tenancy agreement supplied was neither dated nor signed by the parties.
13. The Tenant is responsible for internal decoration subject to s11 Landlord and tenant Act 1985.
14. The Rent Officer had inspected the property on 31st January 2023 and describes the property as modernised but in his calculation of a Fair Rent he makes deductions to reflect an unmodernised kitchen and no white goods floor coverings or carpets supplied by the Landlord.
15. The Rent Appeal Statement from the Landlord's Agent says that there is electric central heating and partial double glazing. The Agent also states that the Bathroom is being upgraded by the Tenant, that works to remedy damp in a Bedroom are ongoing, that the carpets are very old, and the Kitchen is functional but not in great condition.
16. The Agent states that the previous Landlord, now deceased, had not charged the full Registered Rent for some years but the new owners are seeking to increase the rent in order fund future improvement works. The Agent provided details of two comparable properties in the area that are available to rent at £1,150 per month and £1,370 per month and states that there is a shortage of comparable properties in the area.
17. The Energy Performance Rating for the property is 'F' and states that the heating is from night store heaters and hot water is from an Electric Immersion Heater.
18. 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

19. 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.
20. 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).
21. 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

22. 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.
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. 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 south Hampshire. Having done so it concluded that such a likely market rent would be £1,250 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 £1,250 per calendar month particularly to reflect the Tenants' decorating responsibilities, the general condition 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.
25. The Tribunal therefore considered that this required a total deduction of £575 per month made up as follows:

Tenant's upgrade of dated bathroom	£75
Dated kitchen	£100
Tenant's floor coverings	£50
Tenant's curtains	£25
Tenant's white goods	£30
Tenant's responsibility for internal decoration	£50
Poor insulation and EPC rating	£75
Electric heating	£50
Dampness and general disrepair	£50

TOTAL per month £505

26. The Tribunal did not consider that there was any substantial scarcity element in the area of south Hampshire.

Decision

27. Having made the adjustments indicated above the fair rent determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £745 per calendar month equating to £172 per week.
28. 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 and we determine that the lower sum of £172 per week is registered as the fair rent with effect from 4th May 2023.

Accordingly, the sum of £172 per week will be registered as the fair rent with effect from the 4th May 2023 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.