



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

**Case Reference** : **CHI/00MS/F77/2023/0027**

**Property** : **7 Atherley Road  
Southampton  
Hampshire  
SO15 5DR**

**Applicant Landlord** : **Mr P Starling**

**Representative** : **Genesis Rentals Ltd**

**Respondent Tenant** : **Dr G Rouschias**

**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  
Mrs A Clist MRICS**

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

**Date of Decision** : **31<sup>st</sup> May 2023**

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**DECISION**

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## **Summary of Decision**

On 31<sup>st</sup> May 2023 the Tribunal determined a fair rent of £865 per month with effect from 31<sup>st</sup> May 2023.

## **Background**

1. On 5<sup>th</sup> January 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £995 per month.
2. The rent was previously registered on the 19<sup>th</sup> November 2020 at £715 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 23<sup>rd</sup> February 2023 at a figure of £750 per month with effect from the same date.
4. By a letter dated 13<sup>th</sup> March 2023 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 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 21<sup>st</sup> April 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 both parties which had been copied to the opposing party.

## **The Property**

9. The property is described as a converted self-contained ground floor flat with accommodation comprising a Living Room, Kitchen, 2 Bedrooms and a Bathroom with WC. Outside there is a Garden and off-street parking. The flat is within a semi-detached house originally built about 1910 with brick elevations beneath a slate roof which has been converted to provide 2 flats.
10. The property is situated in a residential area of similar housing within reach of all main amenities.

## Evidence and Representations

11. The Rent Officer states that the flat has partial central heating and that the tenancy commenced 1<sup>st</sup> April 2004 with the Tenant responsible for internal decoration subject to Section 11 of the Landlord and Tenant Act 1985. In the Rent Officer's calculation, the starting rent is £850 per month for a 2-bedroom flat in this area with a number of deductions made, one of which was to recognise the dated Bathroom.
12. The Landlord's Agent states that the first floor flat in the same building was let recently at £995 per calendar month and provides details of other 2-bedroom flats available to rent with asking prices between £820 and £1,250 per month.
13. The Agent states that the flat has double glazed windows and central heating, that white goods are provided by the Landlord as are the carpets but acknowledges that curtains are supplied by the Tenant.
14. The Tenant states that an increase in rent from £715 per month set by the Rent officer 2 years ago to a new increased rent of £995 is startling and exorbitant and suggests that the Government should freeze house prices.
15. The Tenant further states that no upgrading of the Kitchen or Bathroom are necessary, that the upstairs flat has a larger footprint, that the Landlord maintains the Kitchen fittings and appliances but that the Tenant had replaced the fridge and the cooker is faulty.

## 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 Southampton. Having done so it concluded that such a likely market rent would be £925 per calendar month.
21. 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 £925 per calendar month particularly to reflect the Tenant's provision of curtains and fridge, a defective cooker and the Tenant's decoration liability.
22. The Tribunal therefore considered that this required a total deduction of £60 per month made up as follows:

Provision of fridge and defective cooker	£20
Provision of curtains	£10
Decoration liability	£30
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TOTAL per month	£60

23. The Tribunal did not consider that there was any substantial scarcity element in the area of Southampton.

### **Decision**

24. 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 £865 per calendar month.

25. 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 £865 per month will be registered as the fair rent with effect from the 31<sup>st</sup> May 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](mailto: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.