



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

Case reference : CHI/00HB/F77/2023/0028

Property : Flat 3, 23 Montague Hill, Bristol, BS2 8ND

Applicant Tenant : Mr A Abourgebah

Representative : None

Respondent Landlord : Places for People

Representative : None

Type of application : Determination of registered rent pursuant to Section 70 Rent Act 1977

Tribunal member(s) : Mrs J Coupe FRICS
Mr M.J.F. Donaldson FRICS
Mrs A Clist FRICS

Date of decision : 9 June 2023

DECISION

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Decision of the Tribunal

On 9 June 2023 the Tribunal determined that a sum of £219.00 per week, inclusive of £31.83 will be registered as the Fair Rent with effect from the same date.

Background

1. On 13 January 2023 the landlord applied to the Rent Officer for registration of a Fair Rent of £190.85 per week for the property, including £31.83 for services.
2. On 1 March 2023 the Rent Officer registered a rent of £207.54 per week, including £31.83 for services, effective the same date.
3. On 24 March 2023 the tenant objected to the registered rent.
4. The tenancy appears to be a statutory protected periodic tenancy commencing 26 October 1987. The Tribunal were not provided with a copy of the tenancy agreement.
5. The Rent Register records that the landlord is responsible for repairs and external decorations, whilst the tenant covenants to decorate internally. Section 11 Landlord and Tenant Act 1985 applies.
6. On 21 April 2023 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No objections were received.
7. The Directions required the landlord and tenant to submit their completed statements to the Tribunal by 5 May 2023 and 19 May 2023 respectively, with copies to be sent to the other party. Neither party filed submissions.
8. The only evidence before the Tribunal was the tenant's letter of objection to the Valuation Office Agency ("VOA") dated 22 March 2023, received by the VOA on 24 March 2023, which appended supporting photographic evidence, and the landlord's Application for Registration of Fair Rent form dated 13 January 2023.
9. Having reviewed the application, the Tribunal concluded that the matter was capable of being determined fairly, justly and efficiently on the papers, consistent with the overriding objective of the Tribunal.
10. These reasons address in **summary form** the key issues raised in the application. They do not recite each point. The Tribunal concentrates on those issues which, in its view, go to the heart of the application.

Law

11. When determining a Fair Rent the Tribunal, in accordance with section 70 of the Rent Act 1977, must have regard to all the circumstances including the age, location and state of repair of the property. The Tribunal must

disregard the effect, if any, of any relevant tenant's improvements and the effect of any disrepair or any other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.

12. In *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee* (1995) 28HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 the Court of Appeal emphasised:

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 to that of a regulated tenancy, and

That for the purposes of determining the market rent, assured tenancy market rents are usually appropriate comparables; adjusted as necessary to reflect any relevant differences between the comparables and the subject property.

13. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent, less variable service charge, may be increased to a maximum 5.00% plus Retail Price Index since the last registration.
14. Under paragraph 7 of the Order an exemption to this restriction applies where the Landlord proves that repairs or improvements undertaken have increased the rent by at least 15% of the previous registered rent.

The Property

15. In accord with current policy, the Tribunal did not inspect the property, instead relying on information provided and viewing the exterior of the property via online portals.
16. The property is a self-contained second floor flat within a converted Grade II late 18th century building, situated close to the city centre and within easy reach of local facilities and public transport.
17. The accommodation comprises a reception room, kitchen, two bedrooms and a bathroom. There is no off-road parking.
18. The Rent Officer refers to full central hearing.

Submissions – Tenant

19. In the letter of objection to the Rent Officer's registered rent dated 22 March 2023, the tenant refers to the following:
 - a. The property provides two-bedroom accommodation
 - b. Rotten window frames; lack of ventilation; black mould; health issues
 - c. Electrical fittings not deemed fit for purpose.

Submissions – Landlord

20. None.

Determination

21. 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. Neither party submitted any evidence in such regard and the Tribunal therefore relied on its own experience as a specialist expert Tribunal and its knowledge of rental values locally. The Tribunal determined such figure to be £311.54 per week.
22. Once the hypothetical rent, in good condition, was established, it was necessary for the Tribunal to adjust the figure to allow for the differences between the terms and condition considered usual for such a letting and the condition and facilities of the actual property as at the valuation date, ignoring any tenant's improvements, of which there were none.
23. The Rent Officer adjusted the open market rent to reflect the tenant's liability for internal decoration, the tenant's provision of white goods, floor coverings and curtains, and for disrepair to the sash windows. The Rent Officer made a further deduction to reflect scarcity.
24. With the exception of the alleged disrepair to the sash windows which were evidenced by way of photographs provided to the Rent Officer and which indicated window condensation, peeling paintwork and black mould, no submissions on the Rent Officers' deductions were made by either party.
25. Accordingly, in reflection of the differences in the condition of the property and the provision of white goods/fittings, between a hypothetical market letting and the subject property, the Tribunal makes a deduction of 20% from the open market rent.
26. Furthermore, the tenant is responsible for the internal decoration of the property. The Tribunal considers such a covenant a greater burden than the normal responsibility for an assured shorthold tenant to keep the landlords' decorations in good order. Accordingly, the Tribunal allow an additional deduction of 5%.
27. Deducting a total of 25% from the hypothetical rent, the Tribunal arrived at an adjusted rent of £233.65 per week.
28. The Tribunal then directed itself to the question of scarcity, as referenced in paragraph 12 above and, in arriving at its decision on the point, takes account of the following:
 - a. The Tribunal interpreted the 'locality' for scarcity purposes as being the whole area of Bristol (i.e. a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent);
 - b. Availability of property to rent;
 - c. Local Authority and Housing Association waiting lists;

- d. Flat and rental prices which could be an indicator of increased availability of housing and a reduction in scarcity;
 - e. The absence of submissions on the point by the parties.
29. The members of the Tribunal have, between them, many years of experience of the residential letting market and that experience, coupled with the above, leads them to the view that there is currently no shortage of similar flats to let in the locality defined above.
30. Accordingly, the Tribunal made no deduction for scarcity.

Maximum Fair Rent

31. This is the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice.
32. The Rent Acts (Maximum Fair Rent Order) 1999 restricts the amount by which the rent, less any variable service charge, may be increased, to a maximum 5% plus RPI since the last registration.
33. The only exception to this restriction is provided under paragraph 7 of the Order where a landlord carries out repairs or improvements which increase the rent by 15% or more of the previous registered rent. The Tribunal determined that such exception does not apply in this instance.
34. The rent to be registered in this application is limited by the Fair Rent Acts' (Maximum Fair Rent Order) 1999 because it is above the maximum fair rent that can be registered of £219.00 per week prescribed by the Order.
35. The Tribunal accordingly determines that the Maximum Fair Rent of **£219.00 per week, including £31.83 attributable to services, is registered as the Fair Rent with effect from 9 June 2023**, that being the date of the Tribunal's decision. The rent is to be registered as fixed.
36. The rental figure determined by the Tribunal exceeds that proposed by the landlord. Such figure is the maximum rent payable. However, the landlord is under no obligation to charge the full amount

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.