



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

**Case reference** : CHI/45UD/F77/2023/0023

**Property** : 101 Castle Road, Rowlands Castle,  
Hampshire, PO9 6AR

**Applicant Tenant** : Mr A Donaldson

**Representative** : None

**Respondent Landlord** : Mrs J Hall

**Representative** : Chinneck Shaw

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

**Tribunal member(s)** : Mrs J Coupe FRICS  
Mr S Hodges FRICS  
Mr M Woodrow MRICS

**Date of decision** : 16 June 2023

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**DECISION**

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## Decision of the Tribunal

**On 16 June 2023 the Tribunal determined that a sum of £800.00 per month will be registered as the Fair Rent with effect from the same date.**

## Background

1. On 28 December 2022 the Rent Officer received an application dated 19 December 2022 on behalf of the landlord for registration of a Fair Rent of £800.00 per month in lieu of the passing rent of £785.00 per month.
2. On 23 February 2023 the Rent Officer registered a rent of £800.00 per month effective the same date.
3. On 20 March 2023 the landlord objected to the registered rent.
4. The tenancy appears to be a statutory protected periodic tenancy commencing 14 April 1973. The Tribunal was not provided with a copy of any tenancy agreement.
5. The Rent Register shows 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 25 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 statements to the Tribunal by 9 May 2023 and 23 May 2023 respectively, with copies to be sent to the other party. Both parties complied.
8. 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.
9. 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

10. 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.

11. 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.

12. 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.
13. 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**

14. 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 publicly available online platforms.
15. The property is a two-storey semi-detached house of rendered cavity masonry construction with a tiled roof, believed to have been constructed in around 1945-1964. The property is in a semi-rural location close to the village centre.
16. The accommodation comprises – Ground floor: living room, kitchen/diner, conservatory. First floor - three bedrooms, bathroom and w.c. There a garden to front and rear, a (dilapidated) carport and off-road parking accessed via a shared drive.
17. The property has gas central heating and partial double glazing.
18. Carpets, curtains and white goods are provided by the tenant.

### **Submissions – Tenant** (summarised)

19. The tenant described the property as an ex-local authority house located on a main road through the village.
20. The tenant stated that the landlord has not met their obligations in regard to repair and external decoration, referring, by way of example, to storm damage to the carport and guttering, a lack of external decoration within ten years, movement to the fireplace surround and general disrepair which, despite being reported, remains outstanding.

21. In response to the landlord's claim that the carport does not form part of the tenancy agreement and any disrepair should therefore be disregarded in the rent assessment, the tenant points to the fact that for the past 26 years rent has been paid for the property with the benefit of a carport.
22. The tenant stated that the only double glazed units are to be found within the front and rear doors and a side window, the seals of which are blown. The remaining 13 windows are single glazed.
23. The tenant stated that the bathroom remains as per originally installed some 60 years ago and that the kitchen was installed by the tenant approximately 25 years ago. A woodburner was installed and a chimney flue fitted approximately 23 years ago, both at the tenant's expense.
24. The tenant relied upon the letting of No. 99 Castle Road which she described as a well maintained property with double glazing, carport, garage, new kitchen/bathroom and a conservatory which lets for £647.10 per month.

### **Submissions – Landlord** (summarised)

25. The landlord did not dispute the condition of the property or the alleged disrepair, instead indicating that some works were either underway or are scheduled. Accordingly, the landlord accepted the Rent Officer's adjustments to the open market rent.
26. The landlord's challenge to the registered rent centred on the starting rent applied by the Rent Officer, such figure being £1,050 per month. In contrast, the landlord considered that an open market rent of £1,250 per month in current condition or £1,450 per month with a scheme of "*internal decorations and fixtures and fittings*" was achievable.
27. In support of such opinion the landlord relied upon a schedule of rental properties within 1 mile of the subject.
28. The landlord considered that registered rents, regardless of property type, had generally risen by 7-10% over the last two years.
29. Finally, the landlord stated that demand for such properties is considerably higher than the number of properties available.

### **Determination**

30. 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.
31. The tenant relied upon the letting of a neighbouring property, 99 Castle Road, but did not provide any evidence of the date of letting, the type of tenancy or any supporting information. The Tribunal is therefore unable to attribute any weight to this comparable.

32. The landlord relied upon a basket of comparable evidence which included a detached house and a semi-detached bungalow, with asking prices ranging from £1,100 - £1,750 per month and advertised as available to let between May 2021 and May 2023.
33. Extracting from the landlord's evidence those properties which were of a similar size and available to rent at around the pertinent date and having regard to the Tribunal's own experience as a specialist expert Tribunal and its knowledge of rental values locally, the Tribunal determined the open market rent to be in the region of £1,200 per month.
34. Once the hypothetical rent was established, it was necessary for the Tribunal to determine whether the property meets the standard of accommodation, repair and amenity of a typical modern letting. In this instance the Tribunal determined that the subject property falls short of the standard required by the market.
35. It is common ground between the parties that the property requires repair and maintenance and that the bathroom fittings remain as per originally installed. The kitchen is unmodernised and was installed by the tenant. There is only partial double glazing. White goods, carpets and curtains are supplied by the tenant.
36. 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.
37. In reflection of such differences the Tribunal make a deduction of £400.00 from the hypothetical rent to arrive at an adjusted rent of £800.00 per month.
38. The Tribunal then directed itself to the question of scarcity, as referenced in paragraph 11 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 Hampshire (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. House and rental prices which could be an indicator of increased availability of housing and a reduction in scarcity;
39. 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 properties to let in the locality defined above.
40. Accordingly, the Tribunal made no deduction for scarcity.

## **Maximum Fair Rent**

41. 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.
42. 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.
43. 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.
44. The rent to be registered in this application is not limited by the Fair Rent Acts' (Maximum Fair Rent Order) 1999 because it is below the maximum fair rent that can be registered of £1,028 per month prescribed by the Order.
45. The Tribunal accordingly determines that the rent of **£800.00 per month is registered as the Fair Rent with effect from 16 June 2023**, that 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.