



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

Case Reference : **CHI/21UH/F77/2023/0029**

Property : **Maisonette
Derwent Lodge
40 New Town
Uckfield
TN22 5DE**

Applicant Landlord : **Mr T Earl**

Representative : **None**

Respondent Tenant : **Mr I Fleet**

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 M J F Donaldson FRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **22nd June 2023**

DECISION

Summary of Decision

On 22nd June 2023 the Tribunal determined a fair rent of £850 per month with effect from 22nd June 2022.

Background

1. On 19th January 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £800 per month.
2. The rent was previously registered on the 1st March 2021 at £671.50 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 24th March 2023 at a figure of £820 per month with effect from the 17th April 2023.
4. By a letter dated 5th April 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 22nd May 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 videos 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 other party.

The Property

9. The property is described as a maisonette flat comprising the 2 upper storeys of a Victorian semi-detached house which has been converted to provide a dental surgery on the lower floors and a maisonette above. The building has brick elevations beneath slate roof.
10. The accommodation is said to be reached through an entrance that is shared with the surgery and stairs to the upper floors, and comprises a

living room, dining room, kitchen and bathroom on the first floor of the building and three bedrooms on the upper floor.

11. The property is well situated on the southern side of Uckfield within a short walk of the railway station. There is a good range of amenities in the town.

Evidence and representations

12. The Tenant says that the property was first occupied by his parents in 1976 and his tenancy began in 1987 and the Tenant is responsible for internal decoration.
13. The Tenant makes a number of points about the property including:- that the access through the shared entrance is 'uncomfortable' as he has to walk past the dentist's waiting room; that the flat has no central heating but there is a combination of an open fire in the living room, night store heaters installed by him and oil filled radiators in the bedrooms; that the kitchen is basic; that there is little insulation; that the bathroom fittings are at least 47 years old; that the electrics are old; that there is no off road parking nominated for the flat; there is no garden; that there are chemical smells and dentistry noises from the surgery below; that he has carried out some internal repairs; that he provides the carpets, curtains and white goods; and that there have been roof leaks which have damaged the internal decoration.
14. The Tenant provided photographs which show damaged decorations.
15. The Tenant also refers to several issues that may be regarded as personal to him or to the Landlord, and that he is allowed to sublet to one other person, which he does.
16. The Landlord describes the property as having solid fuel central heating which the Tenant says is an open fire. The landlord also says that double glazing and that the carpets and curtains are provided by him. The Landlord also states that he has offered to fit central heating, even though he has said that there is central heating. He is unsure about the ownership of any carpets, curtains or white goods. He also states that the Tenant has parking available 'out of hours'.
17. The Tribunal noted that the Landlord had only acquired the property relatively recently and may not be aware of all the details of the history of the tenancy.

The Law

18. 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.

19. 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).
20. 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

21. 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.
22. 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 a 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 East Sussex. Having done so it concluded that such a likely market rent would be £1,150 per calendar month.
23. However, the property is not let in a condition considered usual for a modern letting at a market rent. Therefore, it is first necessary to adjust that hypothetical rent of £1,150 per calendar month particularly to reflect the issues raised by the Tenant. These adjustments would include allowances for items provided by the Tenant which would not be the normal case in an open market letting.
24. The Tribunal therefore considered that this required a total deduction of £300 per month made up as follows:

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|---|-----|
| Lack of central heating and poor insulation | £50 |
| Tenant's provision of white goods | £30 |

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| Dated kitchen and bathroom fittings | £100 |
| Tenant's provision of floorings | £50 |
| Tenant's provision of curtains | £20 |
| Tenant's liability for internal decoration | £20 |
| Shared access and 'nuisance' from dental surgery | £30 |
| | _____ |
| TOTAL per month | £300 |

25. The Tribunal did not consider that there was any substantial scarcity element in the area of East Sussex.

Decision

26. 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 £850 per calendar month.
27. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £882.50 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 £850 per month will be registered as the fair rent with effect from the 22nd June 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.