



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

Case Reference : **CHI/40UB/F77/2023/0030**

Property : **3 Church Lane
Cloford
Frome
Somerset
BA11 4PH**

Applicant Landlord : **Low Moor Properties Ltd**

Representative : **Allsop Letting & Management**

Respondent Tenant : **Mrs H Burden**

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 C M Davies FRICS
Mr N I Robinson FRICS**

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

Date of Decision : **27th June 2023**

DECISION

Summary of Decision

On 27th June 2023 the Tribunal determined a fair rent of £750 per month with effect from 27th June 2023.

Background

1. On 2nd February 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £720 per month.
2. The rent was previously registered on the 15th September 2020 at £655 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 22nd March 2023 at a figure of £720 per month with effect from the same 22nd March 2023.
4. On 19th April 2023 the Rent Officer received an objection to the new rent from the Tenant 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 one of the parties or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal office issued directions on 23rd 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 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. Neither party made any further submissions to the Tribunal.

The Property

9. The property is described in the papers as a centrally heated semi-detached house built in about 1972 with accommodation comprising a Living Room, Kitchen, Utility and WC all at ground level and 3 Bedrooms and a Bathroom with WC at first floor level. Outside there is a garden and garage.
10. The property is in a rural position about 5 miles southwest of Frome, with no amenities nearby.

Evidence and representations

11. The Rent Officer states that the tenancy commenced 9th December 1988.
12. With the original application for a new rent the Landlord's Agent refers to a national trend for rents of properties let on an assured shorthold basis to have risen nationally by about 7.5%.
13. In assessing the rent the Rent Officer made deductions for unmodernised kitchen and bathroom, no white goods carpets or curtains, the Tenant's liability for internal decoration and for scarcity.
14. The Energy Performance Certificate rates the property as a 'E' and refers to double glazed windows and oil-fired central heating.

The Law

15. 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.
16. 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).
17. 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

18. 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.
19. Whilst sympathetic to any Tenant's personal circumstances the Tribunal may not take these into account when assessing a rent.
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 Somerset. Having done so it concluded that, for a property in such a location a likely market rent would be £1,150 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 £1,150 per calendar month particularly to reflect the dated kitchen and bathroom fittings, the fact that the carpets, curtains and white goods were all provided by the Tenant, the poor EPC rating and the Tenant's responsibility for decoration and repair which would not be the case for an open market assured shorthold tenancy.
22. The Tribunal therefore considered that this required a total deduction of £400 per month made up as follows:

Dated kitchen	£100
Dated bathroom	£50
Tenant's internal decoration liability	£50
Tenant's provision of white goods	£30
Tenant's provision of floor coverings	£50
Tenant's provision of curtains	£20
Poor EPC rating	£50
Tenant's responsibility for general repairs.	£50
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TOTAL per month	£400

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

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 £750 per calendar month.
25. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £868 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 £750 per month will be registered as the fair rent with effect from the 27th June 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.