



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

Case Reference : **CHI/00ML/F77/2023/0036**

Property : **Ground Floor Flat
14 Denmark Terrace
Brighton
BN1 3AN**

Applicant Landlord : **Mr H H Tehrani**

Representative : **None**

Respondent Tenant : **Mr F J Butt**

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 Ayres FRICS
Mr S J Hodges FRICS**

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

Date of Decision : **14th August 2023**

DECISION

Summary of Decision

On 14th August 2023 the Tribunal determined a fair rent of £744.50 per month with effect from 14th August 2023.

Background

1. On 5th April 2023 the Landlord applied to the Rent Officer for registration of a fair rent of £1,100 per month.
2. The rent was previously registered on the 26th September 2006 at £385.50 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 15th May 2023 at a figure of £675 per month with effect from the same date.
4. By a letter dated 6th June 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 4th July 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 the Landlord which were copied to the Tenant, but no representation was made by the Tenant.

The Property

9. The property is described as a self-contained ground floor flat with no central heating within a converted Regency style 4-storey terraced house built before 1914, itself in a prestigious area about ½ mile from Brighton Beach.
10. The accommodation includes a Hall, Living Room, Kitchen, Bedroom, Shower Room, WC and Garden. There is no off-street parking. All main amenities are available within Brighton.

Evidence and Representations

11. The Rent Officer held a consultation at the property on 3rd May 2023 where the Tenant raised the issue of noise from other flats in the building and past leaks through the ceiling. The Tenant also asked about damp issues, but the Landlord did not feel that there was any 'proper damp'. The Tenant has paid for some radiators and the kitchen units which the Rent officer stated would be disregarded in reaching a new rent.
12. The start date of the Tenancy is unknown. The Rent Officer considers that the Tenant is responsible for internal repairs, the Kitchen to be unmodernised and the Tenant to be responsible for carpets, curtains and white goods.
13. The Landlord states that similar properties in the area are let for £1,300 to £2,000 per month and that there is high demand for properties of this nature.
14. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values in determining the rent.

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. 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 good 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 Brighton. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
20. 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 £1,200 per calendar month particularly to reflect any Tenant's improvements, the Tenant's decoration liability, the dated accommodation and the fact that the carpets, curtains and white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
21. The Tribunal therefore considered that this required a total deduction of £400 per month made up as follows:

Tenant's provision of carpets	£30
Tenant's provision of white goods	£30
Tenant's provision of curtains	£10
Tenant's liability for internal decoration	£30
Unmodernised bathroom	£50
Tenant's provision of kitchen units	£100
Lack of central heating and double glazing	£150
TOTAL per month	£400
22. Whilst there is high demand for property in Brighton the Tribunal did not consider that there was any substantial scarcity element in the area which would merit a further reduction in rent for scarcity.

Decision

23. 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 £800 per calendar month.

24. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £744.50 permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly we determine that the lower sum of £744.50 per month is registered as the fair rent with effect from 14th August 2023.

Accordingly, the sum of £744.50 per month will be registered as the fair rent with effect from the 14th August 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.