



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

Case Reference : **CHI/00HH/F77/2023/0040**

Property : **9 Gibson Gardens
Paignton
Devon
TQ4 7AJ**

Applicant Landlord : **PHA Ltd**

Representative : **Grainger Plc**

Respondent Tenant : **Mrs L E Norton**

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 : **4th September 2023**

DECISION

Summary of Decision

On 4th September 2023 the Tribunal determined a fair rent of £175.38 per week with effect from 4th September 2023. This equates to £760 per month.

Background

1. On 14th April 2023 the Landlord's agent applied to the Rent Officer for registration of a fair rent of £186.06 per week. This equates to £806.26 per month.
2. The rent was previously registered on the 17th May 2021 at £148.85 per week with effect from 30th June 2021. This equates to £645 per month.
3. The rent was registered by the Rent Officer on the 22nd May 2023 at a figure of £154.62 per week with effect from the 30th June 2023. This equates to £670 per month.
4. By an email dated 27th June 2023, the Landlord's Agent 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 21st July 2023 which informed the parties that the Tribunal intended to determine the rent based on 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 in the papers as an end terraced house built between 1945 and 1965. It is situated within a cul-de-sac of similar style properties, within the seaside town of Paignton on the south Devon coast. Local amenities are within a reasonable distance.
10. The accommodation comprises a Living Room and Kitchen on the ground floor with, 3 Bedrooms, Bathroom and WC all on the first floor. There are

gardens front and rear. The property has gas-fired central heating and double-glazed windows. The Energy Performance Certificate is rated a 'C' and expires on 24th March 2029.

Evidence and Representations

11. The Rent Officer had assessed an open market rent of £184.62 per week, equating to £800 per month, and has made deductions from this to reflect the Tenant's provision of white goods, carpets and curtains, and the Tenant's responsibility for internal decoration.
12. The Landlord's Agent states that the outside of the property has been decorated in 2022 and that first-floor ceilings were renewed in 2022. The Agent also states that the Kitchen and Bathroom are unmodernised.
13. The Landlord's Agent supplied details of comparable properties in the general area and suggests an open market rent of £276 per week, equating to £1,196 per month, to be adjusted to reflect the Tenant's responsibilities and the unmodernised Kitchen as well as unspecified Tenant's improvements.
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 whole area of Torbay. Having done so it concluded that such a likely market rent would be £1,000 per calendar month. Comparable open market rents are usually expressed as a monthly figure. The Tribunal therefore calculated the rent on a monthly basis and then 'converted' to a weekly rent as part of the decision.
20. The property is not let on the same basis or condition considered usual for an open market letting. Therefore, it was first necessary to adjust that hypothetical rent of £1,000 per calendar month, particularly to reflect the Tenant's responsibilities and condition of the accommodation.

21. The Tribunal therefore considered that this required a total deduction of £240 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	£40
Unmodernised bathroom	£30
Unmodernised kitchen	£100
TOTAL per month	<u>£240</u>

22. The Tribunal did not consider that there was any substantial scarcity element in the whole Torbay area.

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 £760 per calendar month which equates to £175.38 per week.

24. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £192.00 per week 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 and the lower sum of £175.38 per is registered as the fair rent with effect from 4th September 2023.

Accordingly, the sum of £175.38 per week will be registered as the fair rent with effect from the 4th September 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.