



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

Case Reference : **CHI/24UD/F77/2023/0042**

Property : **3 Burns Close
Eastleigh
Hampshire
SO50 5DU**

Applicant Landlord : **Commercial Environmental Ltd**

Representative : **David Evans Estate Agents**

Respondent Tenant : **Mr A C Beard**

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 £237.70 per week effect from 4th September 2023. This equates to £1,030 per month.

Background

1. On 14th April 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £248.50 per week. This equates to £1,076.83 per month.
2. The rent was previously registered on the 3rd June 2021 at £196 per week with effect from 3rd June 2021 following a referral to the First Tier Property Tribunal . This equates to £849.33 per month.
3. The rent was registered by the Rent Officer on the 16th June 2023 at a figure of £205 per week with effect from the same date. This equates to £888.33 per month.
4. By an email dated 7th July 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 25th 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's Agent 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 a mid-terraced house built in 1937. It is situated within a cul-de-sac of similar style properties, within the town of Eastleigh about 5 miles north of Southampton. All main amenities are within a reasonable distance.

10. The accommodation comprises a Living Room, Kitchen, 3 Bedrooms, Bathroom and WC. There are gardens front and rear. There is no off-street parking.
11. The property has gas-fired central heating and double-glazed windows. The Energy Performance Certificate is rated a 'C' and expires on 28th May 2033.

Evidence and Representations

12. The Rent Officer had assessed an open market rent of £275 per week and made deductions from this to reflect the Tenant's provision of some white goods, carpets and curtains, and the Tenant's responsibility for internal decoration. A further reduction is made to reflect a tired Bathroom.
13. The Landlord's Agent gives details of several repair and maintenance items carried out by the Landlord, states that the property is in a very good state of repair but advised that the Kitchen and Bathroom have not been updated in the last 5 years.
14. The Agent also states that the adjoining property at 4 Burns Close has been let recently at £1,200 per month but suggests that number 4 is not as good condition as the subject property.
15. The Agent further argues that the demand for properties to rent exceeds supply, leading some tenants to offer over market rent. He does not argue that this is so serious as to justify a reduction in rent to reflect scarcity.
16. 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

17. 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.
18. 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).
19. 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

20. 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.
21. 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 Eastleigh and the wider area of Southampton and its environs. Having done so it concluded that such a likely market rent would be £1,200 per calendar month. Comparable open market rents are usually expressed monthly. The Tribunal therefore calculated the rent on a similar basis and then converted that rent to a weekly figure.
22. 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 £1,200 per calendar month, particularly to reflect the Tenant's responsibilities and condition of the accommodation.
23. The Tribunal therefore considered that this required a total deduction of £170 per month made up as follows:

Tenant's provision of carpets	£30
Tenant's provision of white goods	£20
Tenant's provision of curtains	£10
Tenant's liability for internal decoration	£40
Unmodernised/tired kitchen and bathroom	£70
TOTAL per month	£170

24. Whilst demand for properties to rent is high the Tribunal did not consider that there was any substantial scarcity element in the area of Eastleigh and Southampton and therefore made no deduction for scarcity.

Decision

25. 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 £1,030 per calendar month which equates to £237.70 per week.
26. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £251.50 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 that the lower sum of £237.70 per week is registered as the fair rent with effect from 4th September 2023.

Accordingly, the sum of £237.70 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.