



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

Case Reference : **CHI/43UE/F77/2023/0045**

Property : **19 Dene Street Gardens
Dorking
Surrey
RH4 2DN**

Applicant Landlord : **BPT (Bradford Property Trust) Ltd**

Representative : **Grainger Plc**

Respondent Tenant : **Mr D Jones**

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 S J Hodges FRICS
Mr J S Reichel MRICS**

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

Date of Decision : **25th September 2023**

DECISION

Summary of Decision

On 25th September 2023 the Tribunal determined a fair rent of £276.92 per week with effect from 25th September 2023.

Background

1. On 4th May 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £271.20 per week which equates to £1,175 per month.
2. The rent was previously registered on the 16th June 2021 at £226 per week with effect from 28th July 2021 following a determination by the Rent Officer. This equated to £979.33 per month.
3. The rent was registered by the Rent Officer on the 23rd June 2023 at a figure of £246 per week with effect from the 28th July 2023. This equates to £1,066 per month.
4. By an email dated 13th 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 22nd August 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 Tenant which were copied to the Landlord, but no representation was made by the Landlord or the Landlord's Agent.

The Property

9. The property is within a cul-de-sac and is described as a mid-terraced house built before 1918. It stands flush to the pavement at the front, has a brick front elevation and is in a residential area close to the centre of Dorking. There is a full range of amenities within the town including a Railway Station.

10. The accommodation comprises 2 Living rooms, Kitchen, and Bathroom with WC at ground level with 3 Bedrooms at first floor level. There is a rear garden and off-street parking to the front.

Evidence and Representations

11. The Rent Officer had assessed an open market rent of £1,500 per month and then makes several deductions including an allowance for the absence of central heating.
12. The Tenant says he first took occupation on 1st January 1987, says that he has installed central heating to the ground floor and the Landlord has fitted double glazed windows.
13. The Tenant further states that he provided all carpets and curtains, white goods to the Kitchen and has refitted the Bathroom and Kitchen with modern units. In addition, he refers to a number of relatively minor repair issues but also states that the roof is not well insulated.
14. The Tenant provided useful photographs which show the property to be in reasonable condition. The Tenant is responsible for internal decoration.
15. The Tenant refers to a passing rent of £920 per month for adjoining number 18 Dene Street Gardens but does not say whether this is an open market rent or a controlled rent or the date when this rent was agreed.
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, the date of the hearing, 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 Dorking and surrounding towns. Having done so it concluded that such a likely market rent would be £1,750 per calendar month. Market rents are normally expressed as a monthly figure.
22. 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 £1,750 per calendar month particularly to reflect the Tenant's improvements, condition 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.
23. The Tribunal therefore considered that this required a total deduction of £550 per month made up as follows:

Tenant's provision of carpets	£50
Tenant's provision of white goods	£30
Tenant's provision of curtains	£20
Tenant's liability for internal decoration and general repair	£50
Tenant's refitting Bathroom	£100
Tenant's refitting Kitchen	£150
Lack of heating supplied by Landlord and poor roof insulation	£150
TOTAL per month	£550

24. The Tribunal did not consider that there was any substantial scarcity element in the area of Dorking and surrounding towns.

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 £1,200 per calendar month which equates to £276.92 per week.
26. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £291.50 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 we determine that the lower sum of £276.92 per week is registered as the fair rent with effect from 25th September 2023.

Accordingly, the sum of £276.92 per week will be registered as the fair rent with effect from the 25th 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.