



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

Case Reference : **CHI/29UN/F77/2023/0052**

Property : **86 Minnis Road
Birchington
Kent
CY7 9SF**

Applicant Landlord : **St John's College**

Representative : **Savills**

Respondent Tenant : **Mr C Stewart**

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
Ms C D Barton MRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **3rd November 2023**

DECISION

Summary of Decision

On 3rd November 2023 the Tribunal determined a fair rent of £806 per month with effect from 3rd November 2023.

Background

1. On 3rd July 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £800 per month.
2. The rent was previously registered on the 9th September 2021 at £631.50 per month with effect from the same date following a determination by the First-Tier Tribunal Property Chamber.
3. The rent was registered by the Rent Officer on the 2nd August 2023 at a figure of £802 per month with effect from the 9th September 2023.
4. By a letter received on 1st September 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 20th September 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 further representation was made by the Tenant.

The Property

9. From the information provided and available on the internet, the property can be described as a semi-detached house built between 1914 and 1945 of brick elevations beneath a slate roof.
10. The property is situated in a residential area on the western side of Birchington, about 300 metres from a railway station.

11. The accommodation includes 2 rooms, Kitchen, Utility and Bathroom with WC at ground floor level and has 3 Bedrooms at first floor level. Outside there is a garden and garage accessed to the rear of the property.
12. The property has central heating but no double glazing and the Energy Performance Rating for the property is 'D'.

Evidence and Representations

13. The Rent Officer had assessed an open market rent of £1,080 per month and then made several deductions arriving at an adjusted figure of £815 per month, including a deduction for the Tenant's responsibility for internal decoration. This adjusted rent is then subject to Maximum Fair Rent capping provisions which limit the rent to £802 per month.
14. In his letter of appeal Mr Stewart states that he is struggling to pay the increased rent and refers to poor insulation, metal windows, damp from blocked downpipes and states that "lots of work needs doing" but gives no more specific details.
15. The Landlord's Agent states that the property has gas-fired central heating but no double glazing and that the Tenant provides carpets, curtains and white goods.
16. The Landlord's Agent provides several internal photographs of the property which show dated accommodation in fair condition and provides details of 3 comparable properties available to rent in the area at asking rents from £950 to £1,300 per month. The Agent suggests an open market rent for the property of £1,075 per month.

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. The Tribunal cannot take into account the personal circumstances of either party.
22. 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 north Kent. Having done so it concluded that such a likely market rent would be £1,080 per calendar month.
23. 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 £1,080 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenant, that there is no double glazing, that the Tenant is responsible for internal decoration and there is some internal dampness. which would not be the case for a new open market assured shorthold tenancy.
24. The Tribunal therefore considered that this required a total deduction of £180 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	£50
Lack of double glazing	£20

Internal dampness	<u>£10</u>
TOTAL per month	£180

25. The Tribunal did not consider that there was any substantial scarcity element in the area of north Kent.

Decision

26. 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 £900 per calendar month.
27. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £806 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 £806 per month is registered as the fair rent with effect from 3rd November 2023.

Accordingly the sum of £806 per month will be registered as the fair rent with effect from the 3rd November 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.