



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

Case Reference : **CHI/24UB/F77/2023/0056**

Property : **21 Barrett Court
Stubbs Road
Basingstoke
Hampshire
RG21 3AD**

Applicant Landlord : **Southern Housing**

Representative : **None**

Respondent Tenant : **Mrs G Pickard**

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 £167.30 per week with effect from 3rd November 2023.

Background

1. On 30th June 2023 the Landlord sent an email to the Rent Officer applying for registration of a fair rent of £118.59 per week, including a fixed sum for services, which equates to £513.89 per month.
2. The rent was previously registered on the 4th October 2018 at £139.50 per week, equating to £604.50 per month with effect from the same date, following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 18th August 2023 at a figure of £147 per week with effect from the same date. This equates to £637 per month.
4. By an email dated 4th 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 26th 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 Tenant which were not copied to the Landlord, but no further representation was made by the Landlord.

The Property

9. From the information provided and available on the internet, the property can be described as a ground floor flat within a modern purpose-built two-

storey block of similar properties in a residential area on the southern side of Basingstoke, less than 2 miles from the town centre. The M3 Motorway and A339 are both close by. There are shops within reasonable walking distance providing day-to-day needs.

10. The accommodation comprises a Living Room, Bedroom, Kitchen and Bathroom with WC. There are communal gardens and off-street parking.
11. The property has double-glazed windows and gas-fired central heating.

Evidence and Representations

12. The Rent Officer had assessed an open market rent of £750 per month equating to £173 per week, which was then adjusted to reflect the Tenant's provision of carpets, curtains and white goods, that the Tenant is responsible for internal decoration and the Bathroom is basic.
13. The Tenant states that a new boiler was installed by the Landlord in June 2023, that Kitchen cupboards were renewed over 5 years ago and that the double glazing was installed by the Landlord in 2012.
14. The Tenant states that there are some present and past issues with mould, that the Bathroom is dated, that the Kitchen is dated and that some nearby trees interfere with light to the flat.
15. The Tenant states that she pays more rent than some neighbours but does not state whether these are social rents and she also provides details of many properties in the area available as social housing.
16. The Tenant also provides photographs of some waste pipes within the property and several external and internal photographs.

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 the area of Basingstoke. Having done so it concluded that such a likely market rent would be £850 per calendar month. Open market rents are normally expressed as a monthly figure.
22. However, the property was not let on the basis considered usual for a modern letting at a market rent. Therefore, it was first necessary to adjust that hypothetical rent of £850 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenant, and the Tenant is responsible for internal decoration 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 £125 per month made up as follows:

Tenant's provision of carpets	£50
Tenant's provision of white goods	£30
Tenant's provision of curtains	£10
Tenant's liability for internal decoration	£35
TOTAL per month	<hr/> £125

24. The Tribunal did not consider that there was any substantial scarcity element in the area of Basingstoke.

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 £725 per calendar month which equates to £167.30 per week.
26. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £193 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.
27. The Tribunal is aware that this new rent figure is more than the rent sought by the Landlord, but the Landlord is not obliged to charge this higher rent.

Accordingly, the sum of £167.30 per week will be registered as the fair rent with effect from the 3rd November 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.