



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

Case Reference : **CHI/00ML/F77/2023/0058**

Property : **Flat 1
2 Seafield Road
Hove
BN3 2TN**

Applicant Landlord : **Cambridge Housing Properties Ltd**

Representative : **Town & Country Lettings**

Respondent Tenant : **Ms L Goodman**

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 : **20th November 2023**

DECISION

Summary of Decision

On 20th November 2023 the Tribunal determined a fair rent of £169.50 per week with effect from 20th November 2023.

Background

1. On 28th June 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £175 per week.
2. The rent was previously registered on the 16th July 2019 at £125 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 7th August 2023 at a figure of £140 per week with effect from the same date.
4. By an email dated 31st August 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 2nd October 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 both parties which had been copied to the other party.

The Property

9. From the information provided and available on the internet, the property can be described as a self-contained flat ground floor flat in a converted mid-terraced Victorian building divided into six units. The property is in an old established residential close to the seafront with all local amenities, including public transport, available in the area.

10. The accommodation includes a Living Room, Bedroom, Kitchen, Bathroom, WC and has a small garden at the rear of the building. There is on street permit parking.
11. The Energy Performance Rating is 'E' and the certificate says that the property has gas-fired central heating and some double glazing-street permit parking.

Evidence and Representations

12. The Tenant had written to the Rent Officer on 17th July 2023 saying that she was prepared to accept the rent proposed by the Landlord providing that the increase would be covered by her Housing Benefit. She also said that she paid the cost of electricity for the common areas of the building.
13. In his Email appealing the Rent Officer's decision the Landlord's Agent questioned why the Rent Officer had assessed a rent below the amount allowed by the Maximum Fair Rent Order.
14. The Rent Officer had assessed an open market rent for the property of £180 per week which would equate to £780 per month, and then made several adjustments to reach the figure of £140 per week which equates to £606.66 per month.
15. The Landlord's Agent states that the water and sewage for the flat are paid by the Landlord. In the original application he suggests a cost of £1 per week to reflect this.
16. The Agent states that the property has partial double glazing and that when central heating was installed the Landlord provided the boiler and the Tenant provided the radiators. The Agent also states that the layout of the flat was altered in 2014, some 9 years ago, to provide a Bathroom within an annexe at the rear of the property, this is on a higher floor level. The Agent also states that there are double glazed windows to the Kitchen and Bathroom, and the Tenant provides white goods, carpets and curtains.
17. The Agent suggests that an open market rent for the property would be in the range of £1,350 per month to £1,700 per month and provides a report of comparable properties with rents ranging from £1,095 to £1,500 per month.
18. The Tribunal was provided with photographs of the property which show it to be within a 4-storey terraced building. From the photographs provided the accommodation appears to be well maintained and furnished by the Tenant.
19. The Tenant states that she has lived at the property for more than 40 years and has done much to gradually renovate the flat. In addition to providing

part of the central heating she has provided the Kitchen and Bathroom fittings, restored wooden doors and wooden floors, cleared and maintained the garden and fitted some furniture. She is responsible for providing white goods, floor coverings and curtains. She is also responsible for internal decoration and states that there have been some issues with dampness.

20. The Agent also states that the property has recently had electrical repairs in order to comply with an EICR.
21. 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

22. 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.
23. 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).
24. 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

25. 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.
26. 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 Brighton and Hove. Having done so it concluded that such a likely market rent would be £1,250 per calendar month. It should be noted that market rents are usually quoted as a monthly figure.
27. 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 £1,250 per calendar month particularly to reflect some of the Tenant's improvements and responsibilities, 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.
28. The Tribunal therefore considered that this required a total deduction of £190 per month made up as follows:

Tenant's provision of carpets	£20
Tenant's provision of white goods	£30
Tenant's provision of curtains	£10
Tenant's liability for internal decoration	£30
Tenant's provision of kitchen cupboards	£20
Tenant's provision of bathroom fittings	£20
Tenant's contribution to central heating	£50
Internal dampness	£10
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TOTAL per month	£190

29. The Tribunal had noted that the Landlord pays for the water and sewage to the flat and the Tenant pays for the electricity to the common areas. In the absence of any representation from either party, the Tribunal made no adjustment to reflect either cost.
30. The Tribunal did not consider that there was any substantial scarcity element in the area of Brighton and Hove as evidenced by the number of properties advertised to let.

Decision

31. 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 £1,060 per calendar month which equates to £244.62 per week.

32. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £169.50 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 £169.50 per week is registered as the fair rent with effect from 20th November 2023.

Accordingly, the sum of £169.50 per week will be registered as the fair rent with effect from the 20th 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.