



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

Case Reference : **CHI/00ML/F77/2023/0061**

Property : **Flat 112, Eaton Manor
Eaton Gardens
Hove
BN3 3QD**

Applicant Landlord : **Eaton Manor Hove Ltd**

Representative : **Savills (UK) Ltd**

Respondent Tenant : **Mrs C Cox**

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 J F Donaldson FRICS**

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

Date of Decision : **29th November 2023**

DECISION

Summary of Decision

On 29th November 2023 the Tribunal determined a fair rent of £18,153 per annum with effect from 29th November 2023.

Background

1. On 25th July 2023 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £14,835.60 per annum plus £2,340 per annum for services. This equates to a total of £17,175.60 per annum or £1431.30 per month.
2. The rent was previously registered on the 17th August 2021 at £14,166.06 per annum following a determination by the Rent Officer including £1,802.56 for services of which £499.64 was for fuel charges to the flat. The rent of £14,166.06 equates to £1,180.51 per month.
3. The rent was registered by the Rent Officer on the 12th September 2023 at a figure of £14,850 per annum including £2,136.01 for services of which £434.44 was attributable to fuel charges.
4. The total rent of £14,850 equates to £1,237.50 per month.
5. By an email dated 4th October 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.
6. 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.
7. The Tribunal office issued directions on 20th 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.
8. 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.
9. Both parties made submissions to the Tribunal which had been copied to the other party.

The Property

10. From the information provided and available on the internet, the property can be described as a self-contained purpose-built ground floor flat within a modern block of "about" 146 flats built between 1965 and 1980.

11. The property is close to the centre of Hove, within reach of all main amenities.
12. The accommodation includes 4 Rooms, a Kitchen, Bathroom with WC and Shower Room with WC. Some off-street parking is available on a 'first come first served' basis. There is a communal central heating system and windows are double-glazed.

Evidence and Representations

13. The Rent Officer assessed an open market rent for the property of £1,500 per month, which would be £18,000 per annum, less deductions for Tenant's decoration liability, unmodernised kitchen and for the Tenant providing carpets, curtains and white goods.
14. The Landlord's Agent states that the carpets and curtains are provided by the Landlord and refers to three comparable lettings in the same block. The two comparable 4 room flats are let on Assured Shorthold Tenancies for £24,348 and £27,240 per annum respectively.
15. The Landlord's Agent supplied a copy of the service charge account for 2020/2021.
16. The Tenant says that she has lived in the flat since March 1974, although the Landlord says the tenancy began on 23rd April 1997, and that neither she nor the Landlord has made any improvements to the property. She states that she supplies carpets and curtains, and the kitchen is old.
17. 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

18. 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.
19. 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).
20. 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.

Determination and Valuation

21. 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.
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.
23. The Tribunal noted that the Landlord's Agent stated the carpets and curtains were included in the letting whilst the Tenant claimed that she provided these and the Rent Officer had calculated the Fair Rent on this basis. On the balance of probability and in consideration of the Tenant having lived at the property for many years the Tribunal decided that it was most likely the present carpets and curtains were provided by the Tenant.
24. In determining an 'open market rent' the Tribunal had 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 £1,900 per calendar month. Market rents are usually expressed as a figure per month.
25. 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 £1,900 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenant which would not be the case in an open market letting, and that the Tenant is responsible for internal decoration which would not be the case in an open market letting. A further adjustment should be made to reflect the fact that the kitchen fittings are now very dated.

26. The Tribunal therefore considered that this required a total deduction of £240 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	£40
Unmodernised kitchen	£100
TOTAL per month	<u>£240</u>

27. The Tribunal did not consider that there was any substantial scarcity element in the area of Brighton and Hove.

Decision

28. 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 £1,660 per month equating to £19,920 per annum.
29. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £18,153 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 £18,153 per annum is registered as the fair rent with effect from 29th November 2023. This includes the variable service charge of £2,340 per annum.

Accordingly, the sum of £18,153 per annum will be registered as the fair rent with effect from the 29th 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.