



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

Case Reference : **CHI/29UP/F77/2023/0079**

Property : **27 York Parade
Tonbridge
Kent
TN10 3NP**

Applicant Landlord : **Co-Operative Group**

Representative : **Andrews Corporate Client Services**

Respondent Tenant : **Mr D A Jeffrey**

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 J S Reichel MRICS
Mr P E Smith FRICS**

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

Date of Decision : **24th January 2024**

DECISION

Summary of Decision

On 24th January 2024 the Tribunal determined a fair rent of £763.50 per month with effect from 24th January 2024.

Background

1. On 8th September 2023 the Landlord's agent applied to the Rent Officer for registration of a fair rent of £850 per month.
2. The rent was previously registered on the 22nd September 2021 at £597 per month following a determination by the Rent Officer. This rent was effective from 22nd September 2021.
3. A new rent was registered by the Rent Officer on the 25th October 2023 at a figure of £758.50 per month. This new rent was effective from the same date.
4. This new rent was the maximum permitted by the Fair Rent Order. The uncapped rent would have been £810 per month.
5. On 13th November 2023 the Rent Officer had received an email from the Tenant which was taken as an objection to the rent and the matter was referred to the First-Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee.
6. The Tribunal does not routinely 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 13th December 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. The Directions required the Landlord to make submissions to the Tribunal and copies to be sent to the Tenant by 29th December 2023 and the Tenant was required to send his submissions by 12th January 2024. 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. The Landlord's Agent made a submission to the Tribunal on 13th December 2023 including some photographs, which were copied to the Tenant, but the Tenant made no further representation. The Agent also made a case management application on 10th January 2024 asking that the Tribunal accept a late submission including details of comparable properties.

10. Before proceeding to a determination, the Tribunal considered the case management application and decided it would accept the late submission on the basis that it would be difficult to reach a decision without the papers supplied, which in turn would be unfair to both parties.
11. These reasons address **in summary form** the key issues raised by the parties. They do not recite each and every point referred to either in submissions or during any hearing. However, this does not imply that any points raised, or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, then it was considered by the Tribunal. The Tribunal concentrates on those issues which, in its opinion, are fundamental to the application.

The Law

12. 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.
13. 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).
14. 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.

The Property

15. From the information provided and available on the internet, the property can be described as a self-contained purpose-built first and second floor flat above a commercial shop unit in a tertiary position within a residential area on the northern side of Tonbridge, about 1.7 miles from the town centre, and within reach of all main amenities.
16. Access to the property is at the rear of a parade of shops. The accommodation comprises a Living Room, Kitchen, 2 Bedrooms and Bathroom. Outside there is a courtyard area but no allocated parking space.
17. Windows are said to be double glazed and there is electric heating.

Evidence and Representations

18. The original tenancy began on 1st January 1983.
19. The Rent Officer assessed an open market rent for the property of £1,100 per month less deductions for Tenant's decoration liability, unmodernised kitchen and bathroom, provision of carpets and curtains. A further reductions was made for scarcity.
20. The Tenant states that there is no ventilation in the Bathroom which leads to problems with condensation and black mould, that mould also affects the second Bedroom, that the double-glazed windows are now 23 years old and ill-fitting, and that very little maintenance has been carried out over the past 40 years.
21. The Landlord's Agent states that the carpets are provided by the Landlord, that the stair and bedroom carpets are old, that some recent repairs have been carried out which include repair to the kitchen cupboards.
22. The Agent suggests that a market rent for the property should be £850 per month but a higher rent could be achieved if the property were refurbished.
23. 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.

Valuation

24. 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.

25. 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. Market rents are usually expressed as a figure per month and a letting would normally include floorings, curtains and white goods to all be provided by the Landlord.
26. The Tribunal had to decide whether the carpets were provided by the Landlord or the Tenant. Given that the Agent had not managed the property when the tenancy commenced the Tribunal decided to accept the Tenant's assertion that he provided carpets.
27. 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 Tonbridge. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
28. 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 £1,200 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 for an open market assured shorthold tenancy.
29. Further adjustments were necessary to reflect the Tenant's liability for internal decoration, the dated Kitchen and Bathroom and general condition including black mould growth affecting the Bathroom and Bedroom 2.
30. The Tribunal therefore considered that this required a total deduction of £225 per month made up as follows:

Tenant's provision of carpets	£40
Tenant's provision of white goods	£30
Tenant's provision of curtains	£15
Tenant's liability for internal decoration	£40
Unmodernised bathroom	£25
Unmodernised kitchen	£25
General repair including black mould	<u>£50</u>
TOTAL per month	£225

31. The Tribunal noted the number of properties available to rent in the area as advertised on Rightmove and concluded that there was not any substantial scarcity element in the area of Tonbridge.

Decision

32. 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 £975 per calendar month.
33. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £763.50 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 £763.50 per month is registered as the fair rent with effect from 24th January 2024.

Accordingly the sum of £763.50 per month will be registered as the fair rent with effect from the 24th January 2024 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.