



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

**Case Reference** : **CHI/00MS/F77/2023/0082**

**Property** : **13 Bitterne Way  
Southampton  
Hampshire  
SO19 4EB**

**Applicant Landlord** : **Mr L Archer and Mr M Archer**

**Representative** : **None**

**Respondent Tenant** : **Mrs J Smith**

**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 M J F Donaldson FRICS**

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

**Date of Decision** : **7<sup>th</sup> February 2024**

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**DECISION**

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## Summary of Decision

On 7<sup>th</sup> February 2024 the Tribunal determined a fair rent of £271.00 per week with effect from 7<sup>th</sup> February 2024.

## Background

1. On 6<sup>th</sup> September 2023 the Landlords applied to the Rent Officer for registration of a fair rent of £260 per week, equating to £1,127 per month.
2. The rent was previously registered on the 16<sup>th</sup> August 2021 at £209.50 per week, £907.83 per month, following a determination by the First-Tier Tribunal. This rent was effective from 16<sup>th</sup> August 2021.
3. A new rent was registered by the Rent Officer on the 2<sup>nd</sup> November 2023 at a figure of £227 per week, £983 per month. This new rent was below the Maximum Fair Rent of £271 and was effective from the same date.
4. The Landlords objected to the new rent and on the 29<sup>th</sup> November 2023 the matter was referred to the First-Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee.
5. 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.
6. The Tribunal office issued directions on 22<sup>nd</sup> 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.
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. Both parties made representations which were copied to the other party.
8. 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

9. 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.

10. 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).
11. 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**

12. From the information provided and available on the internet, the property can be described as a bay fronted detached house, probably built in the 1930's, situated within a residential area on the east side of the River Itchen.
13. The property has gas-fired central heating and double-glazed windows.

### **Evidence and Representations**

14. The original tenancy began on 1<sup>st</sup> January 1989.
15. The Rent Officer assessed an open market rent for the property at £312 per week less deductions for Tenant's decoration liability, unmodernised kitchen, tired bathroom, Tenants provision of carpets, curtains and white goods, and for scarcity.
16. The Landlord states that some repair works to the rear living room to remedy damp have been completed by the Landlord in 2023. He says that the property is in a good state of repair and that the bathroom and kitchen are both unmodernised.
17. The Landlord also submitted a detailed analysis of sale prices and rents in the general area and suggests that an open market rent of £1,450 would be appropriate. He also includes particulars of several properties in the area and suggests that there is no scarcity in the area.
18. The Tenant also made a submission in which she refers to some repair issues including a fault with the first floor bay window, dated kitchen and

bathroom fittings, and some defective ceilings. Photographs were included with her submission.

19. 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**

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. Market rents are usually expressed as a figure per month and a letting would normally include floorings, curtains and white goods to all to be provided by the Landlord.
22. 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 Southampton. Having done so it concluded that such a likely market rent would be £1,450 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 £1,450 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenant, the Tenant's responsibility for internal decoration and the dated kitchen and bathroom fittings.
24. Using its experience the Tribunal therefore considered that this required a total deduction of £250 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
Unmodernised bathroom	£25
Unmodernised kitchen	<u>£75</u>
 TOTAL per month	 £250

25. The Tribunal noted the number of properties available to rent in the area as advertised on Rightmove and concluded that there was no scarcity element in the area of Southampton.

### **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 £1,200 per calendar month which would equate to £276.92 per week.

27. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £271 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 £271 per week is registered as the fair rent with effect from 7<sup>th</sup> February 2024.

**Accordingly, the sum of £271 per week will be registered as the fair rent with effect from the 7<sup>th</sup> February 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](mailto: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.