



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

Case Reference : **CHI/00HB/F77/2023/0083**

Property : **Garden Flat
23 Apsley Road
Bristol
BS8 2SN**

Applicant Landlord : **Mr S Nazim and S Rizvi**

Representative : **None**

Respondent Tenant : **Mr M and Mrs V Cuthbert**

Representative : **Cliftons and Butlers Ltd**

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 : **7th February 2024**

DECISION

Summary of Decision

On 7th February 2024 the Tribunal determined a fair rent of £1,084.50 per month with effect from 7th February 2024.

Background

1. On 8th September 2023 the Landlords' agent applied to the Rent Officer for registration of a fair rent of £1,200 per month.
2. The rent was previously registered on the 27th April 2021 at £840.50 per month following a determination by the First-Tier Tribunal. This rent was effective from 27th April 2021.
3. A new rent was registered by the Rent Officer on the 1st November 2023 at a figure of £901.53 per month. This new rent was effective from the same date and was made following an inspection earlier that day.
4. On 23rd November 2023 the Landlords' agent objected to the rent and 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 22nd 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.
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 basement level self-contained converted flat within a large semi-detached house about 2 ½ miles northeast of the centre of Bristol.
13. The property is in a residential area with local shops nearby providing day-to-day requirements. There is a wide range of amenities within the city.
14. The accommodation is described as including a Living Room, 2 Bedrooms, Kitchen, Bathroom with WC and Store. Outside there is a garage, car space and gardens.

Evidence and Representations

15. The original tenancy began on 21st November 1975.
16. The Rent Officer had attended a consultation at the Agents office on 24th October 2023 at which the Fair Rent process was explained to the Agent.

The Rent Officer had then inspected the property on 1st November 2023 prior to assessing a new rent later that day. The Tenants would not allow the Landlords or their Agent to inspect the property.

17. The Rent officer had assessed a full open market rent at £1,350 per month but then made deductions for tenants' decoration liability, tenants' provision of carpets, curtains and white goods, for unmodernised kitchen and bathroom and for the lack of central heating, there being only one radiator in the property.
18. The Rent Officer describes the internal condition as fair and the exterior condition as satisfactory. He also states that there have been no Tenants' improvements.
19. The Agent's submission to the Tribunal states that carpets, curtains and all white goods are provided by the Landlords. The submission describes the property as being in good condition and suggests an open market rent for the property of £1,600 per month. Details of comparable properties were also included.
20. The Tenants had written to the Rent Officer on 26th September 2023 describing areas of general disrepair and emailed the Tribunal on 21st January 2024 stating that they provided the carpets, curtains and white goods and that there is only 1 radiator. They reiterated previous comments on condition and repair.
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.

Valuation

22. 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.
23. In the first instance the Tribunal determined what rent the Landlords 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 Landlords.
24. The Tribunal had to decide whether the carpets, curtains and white goods were provided by the Landlords or the Tenants. Given that the Agent had not managed the property when the tenancy commenced the Tribunal decided to accept the Rent Officer's notes that these were all provided by the Tenants.

25. 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 Bristol. Having done so it concluded that such a likely market rent would be £1,600 per calendar month.
26. 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 £1,600 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenants which would not be the case for an open market assured shorthold tenancy.
27. Further adjustments were necessary to reflect the Tenants liability for internal decoration, the partial central heating, the dated Kitchen and Bathroom fittings, and some general disrepair.
28. The Tribunal therefore considered that this required a total deduction of £460 per month made up as follows:

Tenants' provision of carpets	£40
Tenants' provision of white goods	£30
Tenants' provision of curtains	£15
Tenants' liability for internal decoration	£50
Unmodernised bathroom	£75
Unmodernised kitchen	£150
Lack of full central heating	£50
General disrepair	<u>£50</u>
TOTAL per month	£460

29. 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 Bristol.

Decision

30. 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 £1,140 per calendar month.
31. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £1,084.50 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 £1,084.50 per month is registered as the fair rent with effect from 7th February 2024.

Accordingly the sum of £1,084.50 per month will be registered as the fair rent with effect from the 7th 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 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.