



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

Case Reference : **CHI/43UB/F77/2024/0003**

Property : **23 Old Manor House
Station Road
Thames Ditton
Surrey
KT7 0NU**

Applicant Landlord : **Northumberland & Durham Property
Trust Ltd**

Representative : **Grainger Plc**

Respondent Tenant : **Ms M H Scott**

Representative : **Mrs A Scott-Rublee**

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 S J Hodges FRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **26th February 2024**

DECISION

Summary of Decision

On 26th February 2024 the Tribunal determined a fair rent of £1,515 per month with effect from 26th February 2024.

Background

1. On 6th September 2023 the Landlord's agent applied to the Rent Officer for registration of a fair rent of £1,440.99 per month including £104.49 per month attributed to services.
2. The rent was previously registered on the 22nd June 2021 at £1,215 per month following a determination by a First-Tier Property Tribunal. This rent was effective from 22nd June 2021 and included £94.22 per month attributed to services.
3. A new rent was registered by the Rent Officer on the 16th November 2023 at a figure of £1,475 per month including £104.49 per month attributed to services. This new rent was effective from 16th November 2023.
4. On 8th December 2023 the Tenant's daughter emailed to appeal the decision. The Rent officer asked for confirmation from the Tenant that her daughter was authorised to act on her behalf. This was received on 15th December 2023 and on 19th December 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 17th January 2024 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. The Tenant's representative made a submission to the Tribunal, which was copied to the Landlord's Agent, but no representations were received from the Landlord or Agent.
9. 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

10. 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.
11. 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).
12. 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

13. From the information provided and available on the internet, the property can be described as a self-contained 2nd floor flat converted within a Listed Building that is situated in a residential area close to the centre of Thames Ditton. There is no lift.
14. The accommodation is described as comprising 4 rooms, kitchen and bathroom with WC. Outside there are communal gardens and parking. Windows are double glazed and there is gas-fired central heating.

Evidence and Representations

15. The original tenancy began on 1st June 1983.
16. The Rent Officer assessed an open market rent for the property of £1,750 and made deductions for Tenant's decoration liability, unmodernised kitchen, Tenants' provision of white goods, carpets and curtains, and for scarcity.
17. The Tenant's representative states that the floor area of the flat is only 57 sq, metres, that the layout is difficult, and some ceilings are sloping as the flat is within the top floor beneath a mansard roof.
18. She continues that the Tenant installed the kitchen fittings over 20 years ago, that the sink is malfunctioning, that the bathroom fittings are more than 20 years old, the bath is rusted, taps are poorly functioning, and the toilet is unstable. She also refers to the EPC rating which is 'E', states that a fire escape has been removed, there is no shower or grab rails, and that the garden is unusable due to a large branch falling from a tree.
19. The Tenant's representative provided details of a number of comparable properties with open market rents ranging from £1,250 to £2,000 and a list of Fair Rents for properties in the area.
20. The Tenant's representative refers to an email from the Landlord's Agent confirming that, as no improvements or major works had been carried out, they would only request a 10% rent increase in their application. This email also pointed out that the Rent Officer would assess a fair rent independent from the amount requested within the rent increase application.
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 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 floor coverings, curtains and white goods to all be provided by the Landlord.
24. In determining an 'open market rent' the Tribunal had regard to the evidence supplied by the Tenant's representative and the Tribunal's own general knowledge of market rent levels in the area of north Surrey.

Having done so it concluded that such a likely market rent would be £1,900 per calendar 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 for an open market assured shorthold tenancy.
26. Further adjustments were necessary to reflect the Tenants liability for internal decoration, the dated Kitchen and Bathroom and general layout including some restricted ceiling heights with poor insulation.
27. The Tribunal did not consider it appropriate to make any adjustment for fittings specifically required by the Tenant such as grab rails.
28. The Tribunal therefore considered that this required a total deduction of £385 per month made up as follows:

Tenant's provision of carpets	£50
Tenant's provision of white goods	£30
Tenant's provision of curtains	£30
Tenant's liability for internal decoration	£75
Unmodernised bathroom	£50
Unmodernised kitchen	£100
General layout and low EPC	<u>£50</u>
 TOTAL per month	 £385

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

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 £1,515 per month.
31. The Section 70 Fair Rent determined by the Tribunal is below the maximum Fair Rent of £1,572 permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly that Order has no effect in this case.
32. The Tribunal determines that the lower sum of £1,515 per month is registered as the Fair Rent with effect from 26th February 2024.
33. The Tribunal considered the suggested agreement between the parties that the rent should not increase by more than 10%. The rent assessed by

the Tribunal exceeds the rent proposed by the Landlord, assessed in accordance with the appropriate legislation. This is the maximum rent that can be charged. The Tribunal has no conclusive evidence of an agreement between the parties and in any case is required to assess the rent in accordance with the appropriate legislation. The Landlord is not obliged to charge the full rent as assessed.

Accordingly, the sum of £1,515 per month will be registered as the fair rent with effect from the 26th February 2024 this being the date of the Tribunal's decision. This includes a sum for services of £104.49 per month.

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.