



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

Case Reference : **CHI/29UK/F77/2024/0005**

Property : **7 Edenbanks Cottages
29 Lingfield Road
Edenbridge
Kent
TN8 5DU**

Applicant Landlord : **Mr R Brookes-Smith**

Representative : **Ridge Property Limited**

Respondent Tenant : **Mrs V Dissington**

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
Ms C D Barton MRICS**

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

Date of Decision : **4th March 2024**

DECISION

Summary of Decision

On 4th March 2024 the Tribunal determined a fair rent of ££1,025 per month with effect from 4th March 2024.

Background

1. On 11th October 2023 the Landlord's agent applied to the Rent Officer for registration of a fair rent of £990 per month.
2. The rent was previously registered on the 18th December 2017 at £794.50 per month following a determination by the Rent Officer. This rent was effective from 18th December 2017.
3. A new rent was registered by the Rent Officer on the 22nd November 2023 at a figure of £1,000 per month. This new rent was effective from 22nd November 2023.
4. On 16th October 2023 the Tenant had requested a consultation with the Rent Officer but had not received a reply. The Tenant wrote again on 22nd October 2023 objecting to the new rent and the matter was referred to the First-Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee. The Rent Officer later said that he had no record of the original request.
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 12th January 2024 which were amended on 24th 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. The 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. Both parties made representations to the Tribunal which were copied to the other party.
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 is described as a semi-detached house with large garden and allotment. It is attached to or forms part of a larger converted Victorian or Edwardian building which has solid brick walls beneath pitched tiled roofs.

14. The accommodation includes 2 Living Rooms, a Kitchen, 3 Bedrooms and Bathroom. Outside there are gardens, a garage, a storeroom and an allotment.
15. The property is situated on the south side of Edenbridge, a town of about 8000 people which has a railway station and all main amenities.

Evidence and Representations

16. The original tenancy began on 27th January 1981 and specifically includes the allotment.
17. The Rent Officer assessed an open market rent for the property of £1,400 per month less deductions for tenant's decoration liability, unmodernised kitchen and bathroom, tenants' provision of carpets, curtains and white goods, tenant's provision of central heating, general repair and scarcity.
18. The Landlord's Agent states that there is central heating, double glazing, carpets and curtains but does not specify who they are all supplied by. The Agent does say that the double glazing is supplied by the Landlord as are a new front door and 2 radiators.
19. The Agent refers to two other properties that the Landlord owns in the town which have similar accommodation but with smaller gardens and no parking. These are let at £1,150 - £1,250 per month.
20. The Agent also states that the maintenance of the garden for the Tenant has been a challenge for some years such that the Landlord has paid for tree pruning over a 10-year period, at a cost of about £8,000, and to remove a collapsed shed at a cost of £500. The Tenant states that she pays for a gardener to look after the outside spaces.
21. The Tenant states that she supplied the central heating, carpets and curtains but the Landlord provided 2 new radiators in January 2024. She also states that the kitchen and bathroom fittings were installed in or before 1980, that the insulation is poor and lists a number of defects inside and outside, supported by photographs.
22. 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

23. 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.

24. 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.
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 north Kent. Having done so it concluded that such a likely market rent would be £1,500 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 £1,500 per calendar month particularly to reflect the fact that the carpets, curtains, central heating and white goods were all provided by the Tenant 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 dated Kitchen and Bathroom and general condition.
28. The Tribunal made no addition or deduction for the additional allotment as this might be attractive to some tenants but equally would be a disincentive to other.
29. The Tribunal therefore considered that this required a total deduction of £475 per month made up as follows:
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| Tenant's provision of carpets | £60 |
| Tenant's provision of white goods | £30 |
| Tenant's provision of curtains | £20 |
| Tenant's liability for internal decoration | £70 |
| Unmodernised bathroom | £50 |
| Unmodernised kitchen | £100 |
| Tenants provision of heating | £75 |
| General repair including black mould | <u>£70</u> |
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| TOTAL per month | £475 |
30. 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 north Kent.

Decision

31. 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 £1,025 per calendar month.
32. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £1,145 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 figure has no effect, and we determine that the lower sum of £1,025 per month is registered as the fair rent with effect from 4th March 2024.

Accordingly, the sum of £1,025 per month will be registered as the Fair Rent with effect from the 4th March 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.