



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

Case Reference : **CHI/00HG/F77/2024/0007**

Property : **20 Kirkstall Close
Plymouth
Devon
PL2 2SD**

Applicant Landlord : **Sanctuary Housing**

Representative : **None**

Respondent Tenant : **Mr J & Mrs L Watson**

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 £499 per month for the property with effect from 4th March 2024.

This is the rent for a 75% share of the property. The Landlord is not obliged to charge this rent.

Background

1. 19th October 2023 the Landlord applied to the Rent Officer for registration of a fair rent of £270.37 per month. The Tenants own a 25 % share of the property. It is not clear from the application whether this new rent was for the remaining 75% share of the property or was for 100%.
2. The rent for the 75% share owned by the Landlord was previously registered on the 25th January 2017 at £338.50 per month, when the gross rent was stated to be £440.49 per month, following a determination by the Rent Officer. This rent was effective from 25th January 2017.
3. A new rent was registered by the Rent Officer on the 1st December 2023 at a figure of £421.81 per month for the 75% share. This new rent was effective from 1st December 2023 and the gross rent was stated to be £521.65 per month.
4. On 18th December 2023 the Rent officer received an objection from the Tenants 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 25th 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. Neither party made any representations to the Tribunal.
9. These reasons address **in summary form** the key issues raised by the parties. They do not recite each and every point. 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 modern inner-terraced house with a brick front elevation beneath a tiled roof, situated within a development of similar properties on the northeast side of Plymouth. All main amenities are available within the city.
14. The accommodation is described in the application as a 3-bedroom house. From the internet it appears that there are gardens to front and rear and off-road parking for 1 vehicle. The Rent Register states that there is 1 Living Room, a Kitchen/Diner, 3 Bedrooms and a Bathroom with WC. There is no central heating.

Evidence and Representations

15. The original tenancy began on 7th April 1985.

16. The Rent Officer assessed an open market rent for the property of £800 per month less deductions for the Tenants' decoration liability, the Tenants' provision of carpets, white goods, curtains, lack of central heating and scarcity.
17. The Tribunal had regard to the information provided but was forced to rely on its own knowledge and experience of local rental values in determining the rent.

Valuation

18. 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.
19. 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.
20. In determining an 'open market rent' the Tribunal had regard to the lack of evidence supplied by the parties and to the Tribunal's own general knowledge of market rent levels in the area of Plymouth. Having done so it concluded that such a likely market rent would be £1,100 per calendar month.
21. 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 £1,100 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.
22. Further adjustments were necessary to reflect the Tenants' liability for internal decoration and the lack of central heating.
23. The Tribunal therefore considered that this required a total deduction of £240 per month made up as follows:

Tenants' provision of carpets	£50
Tenants' provision of white goods	£30
Tenants' provision of curtains	£10
Tenants' liability for internal decoration	£50
Lack of central heating	<u>£100</u>
TOTAL per month	£240

24. 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 Plymouth.

Decision

25. 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 £860 per calendar month for a full 100% share of the property.
26. However, the Tenants own a 25% share of the property so the rent for the balancing 75% share would be £645 per month.
27. The Section 70 Fair Rent determined by the Tribunal is above the maximum Fair Rent of £499.00 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 £499.00 per month is registered as the Fair Rent with effect from 4th March 2024.

Accordingly, the sum of £499.00 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.

The Landlord is not required to charge this Rent.

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.