



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

Case Reference : **CHI/00HB/F77/2023/0075**

Property : **Ground Floor Flat
43 Royal York Crescent
Bristol
BS8 4JS**

Applicant Landlord : **Ms S Fitzhugh**

Representative : **None**

Respondent Tenant : **Mr J Galvin**

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
Ms C D Barton MRICS
Mr S J Hodges FRICS**

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

Date of Decision : **6th February 2024**

DECISION

Summary of Decision

On 6th February 2024 the Tribunal determined a fair rent of £701.50 per month with effect from 6th February 2024.

Background

1. On 5th September 2023 the Landlord applied to the Rent Officer for registration of a fair rent of £1,100 per month including £305 per month for services.
2. The rent was previously registered on 10th March 2017 at £481.50 per month, including £14.75 for services, following a determination by the Rent Officer. This rent was effective from 10th April 2017.
3. A new rent was registered by the Rent Officer on the 16th October 2023 at a figure of £697.50 per month including £305 per month for services. This new rent was the maximum allowed under the Maximum Fair Rents Order and was effective from 16th October 2023. The uncapped rent would have been £748.60.
4. On 1st November 2023 the Rent Officer wrote to the parties to say that he had received an objection to the new 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 10th November 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. The Parties made submissions to the Tribunal, which were copied to the other party.
9. As part of her submission the Landlord provided a copy of a statement of the service charges account for which she is liable as owner of the flat in question. She states that she paid a total of £3,914.23 “to the buildings management” and “came up with a figure of £305 of the monthly rent to

cover this”. This statement includes ground rent, insurance, costs of upgrading and testing fire security.

10. The Tribunal considered that the Landlord had confused service costs for which she is liable as the owner of the property and any service charges which the Tenant is liable to pay as part of his monthly rent for items such as cleaning or lighting common hallways.
11. Accordingly further Directions were issued on 28th December 2023 requiring the Landlord, by 19th January 2024, to set out any service charges which the Tenant is required to pay as part of the monthly rent, along with supporting invoices. The Tenant was directed to respond to the Landlords submission by 2nd February 2024.
12. Both parties complied with these directions and the Tribunal determined this matter on 6th February 2024.
13. 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

14. 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.
15. 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).

16. 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

17. From the information provided and available on the internet, the property can be described as a ground floor flat within a Listed period terraced house which had been converted to provide 6 flats.
18. The accommodation includes a Living Room and small Kitchen accessed from a common hallway and a Bedroom and small Bathroom with WC accessed separately from the common hallway.
19. The property is within a popular residential area about 1 mile from the centre of Bristol. There is no off-street parking or outside space.

Evidence and Representations

20. The original tenancy began in April 1983. The Tenant states that he pays for utilities and council tax.
21. Gas-fired central heating had been installed in 2010 by a previous owner and the bathroom had been refitted in 2008 at the Tenant's expense.
22. The Tenant supplied all white goods, curtains and a new carpet to the Bedroom. The Living Room floor is bare wooden boards.
23. The Rent Officer assessed an open market rent for the property of £1,050 per month less deductions for tenant's decoration liability, unmodernised kitchen and bathroom, tenant's provision of flooring, and an element of scarcity.
24. The Landlord, having consulted local agents, suggests that an open market rent for the property should be £1,100 per month. She explains that the service charge being levied by the Freeholder has increased considerably as shown in the copy of her account with the managing agent.

25. The Landlord concludes by saying that Mr Galvin is a good tenant but that the costs of owning the flat, purchased at auction, had far exceeded her expectations.
26. The Tenant emphasises that the flat is effectively in 2 parts, both accessed from a common hallway, and sets out a history of his time as tenant. He states that he provided the bathroom fittings and taps, new tiled flooring, a chrome radiator and carpets to two rooms. He confirms that the bathroom and kitchen fittings were installed more than 15 years ago, “old but still fine”.
27. The Tenant provides details of other properties in the area which have registered rents and emphasises that his kitchen is 8 feet long but narrows from 4 feet wide to 3 feet wide. He provided photographs in support of his case which show that the Bathroom is also very narrow.
28. Following the second issue of Directions on 28th December 2023 the Landlord wrote and explained to the Tribunal that this had been her first encounter with the procedure for increasing the rent for a property that is subject to the Rent Act 1977 but is now content to accept the rent assessed by the Rent officer, which was £697.50.
29. The Landlord explained how she had been confused between the service charges made against her as owner of the property and the cost of any services provided to the Tenant.
30. Following the issue of the second directions the Tenant had also made a further submission to the Tribunal which included copies from the Rent Register of the rents assessed in 2008, 2012, 2014 and 2017. The first note of any services attributable within the rent was the amount of £14.75 per month noted in March 2017.

Valuation

31. 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.
32. 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.
33. 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 for a 1-bedroom flat of this nature would be £1,100 per calendar month.

34. 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 separation of the accommodation into 2 parts and the very narrow kitchen and bathroom.
35. Further adjustments should be made to reflect the Tenant's liability for internal decorations and his provision of carpets, curtains, white goods and bathroom fittings.
36. The Tribunal therefore considered that this required a total deduction of £345 month made up as follows:

Split accommodation, narrow rooms	£200
Tenant's provision of carpets	£20
Tenant's provision of white goods	£30
Tenant's provision of curtains	£20
Tenant's liability for internal decoration	£50
Tenant's provision of bathroom fittings	£50
Dated kitchen	£25
TOTAL per month	£395

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

Decision

38. 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 £705 per calendar month.
39. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £701.50 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 £701.50 per month is registered as the Fair Rent with effect from 6th February 2024.
40. In the absence of any evidence to assess the correct amount of qualifying services included in the monthly rent, the Tribunal confirms that the amount to be noted as being for services shall be £14.75 per month.

Accordingly, the sum of £701.50 per month will be registered as the fair rent with effect from the 6th February 2024 January 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.