



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

Case Reference : **CHI/00HX/F77/2024/0010**

Property : **19 Prince Rupert Court
Gainsborough Way
Freshbrook
Swindon
Wilts
SN5 8QQ**

Applicant Landlord : **The Guinness Partnership Ltd**

Representative : **None**

Respondent Tenant : **Mrs F M Harrison**

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 M J Ayres FRICS
Mr M J F Donaldson FRICS**

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

Date of Decision : **25th March 2024**

DECISION

Summary of Decision

On 25th March 2024 the Tribunal determined a Fair Rent of £180.40 per week including a variable service charge of £60.90 per week with effect from 25th March 2024.

Background

1. On 2nd November 2024 the Landlord applied to the Rent Officer for registration of a fair rent of £148.32 per week to include a service charge of £60.90 per week.
2. The rent was previously registered on 16th June 2021 at £125 per week including £33.54 for the variable service charge following a determination by the Rent Officer. The net rent was therefore £91.46 per week and was effective from 16th June 2021.
3. A new rent was registered by the Rent Officer on the 15th December 2023 at a figure of £141.98 per week including £60.90 attributed to services. The net rent was therefore reduced to £80.18 and was effective from 15th December 2023.
4. On 23rd January 2024 the Landlord appealed the decision and the case 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 6th February 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 further representation to the Tribunal.

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 self-contained purpose built first-floor flat situated within Swindon.
13. The accommodation is described as comprising Living Room, Kitchen, Bedroom and Bathroom with WC plus a Store. Outside there are communal gardens and parking. Windows are double glazed and there is gas-fired central heating.

Evidence and Representations

14. The original tenancy began on 21st December 1992.
15. The Rent Officer has assessed an open market rent for the property of £750 per month and then made deductions for scarcity, Tenant's provision of white goods, carpets and curtains, an unmodernised kitchen and Tenant's responsibility for internal decoration.

16. In the absence of further information from either party the Tribunal could only rely on its own knowledge and experience of local rental values in determining the rent.

Valuation

17. 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.
18. 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.
19. In determining an 'open market rent' the Tribunal had regard to the Tribunal's own general knowledge of market rent levels in the area of North Wiltshire. Having done so it concluded that such a likely market rent would be £750 per calendar month.
20. 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 £750 per calendar month to reflect the factors detailed by the Rent officer.
21. The Tribunal therefore considered that this required a total deduction of £110 per month made up as follows:

Tenant's provision of carpets	£20
Tenant's provision of white goods	£30
Tenant's provision of curtains	£10
Tenant's liability for internal decoration	£20
Unmodernised kitchen	<u>£30</u>
TOTAL per month	£110

22. 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 Wiltshire.

Decision

23. 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 £640 per calendar month which equates to £148 per week. This rent should then be adjusted to reflect the level of services provided in the sum of £60.90 per week equating to a new gross rent of £208.90 per week.

24. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of 180.40 per week 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 £180.40 per week is registered as the Fair Rent with effect from 25th March 2024.

Accordingly, the sum of £180.40 per week, including £60.90 for services, will be registered as the Fair Rent with effect from the 25th March 2024, this being the date of the Tribunal's decision.

It is important to note that the Landlord is not obliged to collect this higher 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.