



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

Case Reference : **CHI/00ML/F77/2024/0012**

Property : **Ground Floor Flat
34 Upper Lewes Road
Brighton
BN2 3FH**

Applicant Landlord : **Mr M Kifford**

Representative : **None**

Respondent Tenant : **Ms P Rogers**

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 £831 per month with effect from 25th March 2024.

Background

1. On 5th December 2023 the Landlord applied to the Rent Officer for registration of a fair rent of £850 per month.
2. The rent was previously registered on the 4th January 2022 at £750 per month following a determination by a First-Tier Property Tribunal. This rent was effective from 5th March 2022.
3. A new rent was registered by the Rent Officer on the 22nd January 2024 at a figure of £790 per month with effect from 5th March 2024.
4. On 29th January 2024 the Landlord objected 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 9th 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 ground floor flat within a 3-storey terraced house in a residential area close to the centre of Brighton, about 1½ miles from Brighton Beach.
13. The accommodation is described as comprising a Living Room, Kitchen, Bedroom and Bathroom. There is full central heating and the flat has an EPC rating of 'D'.

Evidence and Representations

14. The original tenancy began on 8th December 1980.
15. The Rent Officer assessed an open market rent for the property of £975 per month and made a number of deductions to reflect the Tenant's responsibility for internal decoration and the provision of carpets, curtains and white goods. Further adjustments were made to reflect an unmodernised kitchen and an element of scarcity.
16. The Landlord asserts that the rent is some way below open market rents for similar properties in the area.
17. 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

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 evidence supplied by the Rent Officer and the Tribunal's own general knowledge of market rent levels in the area of Brighton. Having done so it concluded that such a likely market rent would be £1,000 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 £1,000 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. Further adjustments were necessary to reflect the Tenant's liability for internal decoration and the dated Kitchen.
22. The Tribunal therefore considered that this required a total deduction of £160 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	£30
Dated kitchen	<u>£70</u>
TOTAL per month	£160
23. The Tribunal noted the number of properties available to rent in the area as advertised on Rightmove and concluded that there was not a substantial scarcity element in the area of Brighton.

Decision

24. 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 £840 per calendar month.
25. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £831 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 £831 per month is registered as the Fair Rent with effect from 25th March 2024.

Accordingly, the sum of £831 per month will be registered as the Fair Rent with effect from the 25th 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.