



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

Case Reference : **CHI/24UH/F77/2024/0017**

Property : **2 Northney Cottages
Northney Road
Hayling Island
Hampshire
PO11 0WD**

Applicant Landlord : **Stoke Fruit Farm**

Representative : **None**

Respondent Tenant : **Mr & Mrs P Edney**

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 F Donaldson FRICS
Mr K Ridgeway MRICS**

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

Date of Decision : **11th April 2024**

DECISION

Summary of Decision

On 11th April 2024 the Tribunal determined a Fair Rent of £1,034 per month with effect from 11th April 2024.

Background

1. On 21st December 2023 the Landlord applied to the Rent Officer for registration of a fair rent of £1,043.39 per month.
2. The rent was previously registered on the 31st January 2022 at £827.50 per month following a determination by the Rent Officer. This rent was effective from 31st January 2022.
3. The Rent Officer held a consultation at the property on 31st January 2024. The Landlord was not in attendance but had confirmed previously that it was content for the consultation to proceed.
4. A new rent was registered by the Rent Officer on the 7th February 2024 at a figure of £900 per month. This new rent was effective from 7th February 2024.
5. On 15th February 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.
6. 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.
7. The Tribunal office issued directions on 12th March 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.
8. 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.
9. Both parties submitted representations to the Tribunal which had been copied to the other party.
10. These reasons address **in summary form** the key issues raised by the parties. They do not recite each 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

11. 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.
12. 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).
13. 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

14. From the information provided and available on the internet, the property can be described as a semi-detached house built before 1918 of solid brick elevations beneath a pitched tiled roof.
15. The accommodation is described as comprising 2 Rooms, a Kitchen and Bathroom with WC all at ground level and 3 Rooms at first floor level. The Bathroom leads directly off the Kitchen. Outside there is a garden, car space and stores.
16. The property is situated in a semi-rural position on the north side of Hayling Island, about 2 ½ miles south of Havant.

Evidence and Representations

17. The original tenancy began on 1st October 1983.
18. The Rent Officer assessed an open market rent for the property of £1,375 per month less deductions of £375 per month for the unmodernised kitchen, the Tenants' responsibility for internal decoration, condition and the Tenants' provision of carpets, curtains and white goods. A further reduction of £100 per month was made to reflect scarcity.
19. The Rent Officer's notes from the consultation refer to damp issues in 2 Bedrooms with some blown plaster, damp in the dining room and some slipped roof tiles. There is partial electric heating.
20. The Tenants state that the property is cold and drafty, that they provided a double-glazed back door and front window, that they supply all carpets white goods and curtains, and some garden sheds.
21. The Tenants state they refitted the Kitchen and Bathroom in 1987, that both are still serviceable although dated.
22. The Tenants also provide a number of internal photographs and remark that there is no public transport nearby.
23. The Landlord states that it has provided some double glazing, that the property is in sound condition and that the reported damp is being investigated.
24. The Landlord also states that it rents out 34 Northney Road for £1,600 per month.

Valuation

25. 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.
26. 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.
27. In determining an 'open market rent' the Tribunal had regard to the evidence supplied by the Rent officer and the parties and the Tribunal's own general knowledge of market rent levels in the area of Portsmouth. Having done so it concluded that such a likely open market rent would be £1,500 per calendar month.
28. 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 and white goods were all provided by the Tenants which would not be the case for an open market assured shorthold tenancy.

29. Further adjustments were necessary to reflect the Tenants' liability for internal decoration, the partial electric heating, the dated Kitchen and Bathroom and general condition including black mould growth affecting the Bathroom and Bedroom 2.
30. No deductions were merited for the Tenants' fittings in the bathroom and kitchen as these works had been carried out more than 21 years ago and are therefore to be disregarded as tenants' improvements.
31. The Tribunal therefore considered that this required a total deduction of £370 per month made up as follows:

Tenant's provision of carpets	£30
Tenant's provision of white goods	£30
Tenant's provision of curtains	£10
Tenant's liability for internal decoration	£50
Unmodernised kitchen and bathroom	£75
Partial heating	£75
General repair	<u>£100</u>
 TOTAL per month	 £370

32. The Tribunal noted 21 properties with 3 bedrooms available to rent within a 5-mile radius of the property in the range £1,330-£1,500 per month advertised on Rightmove and many more properties advertised as let agreed in the past 2 months. Accordingly, the Tribunal concluded that there was not any substantial scarcity element in the wider locality of Portsmouth including Hayling island.

Decision

33. 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 £1,130 per calendar month.
34. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £1,034 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 £1,034 per month is registered as the Fair Rent with effect from 11th April 2024.

Accordingly the sum of £1,034 per month will be registered as the Fair Rent with effect from the 11th April 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.