



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

**Case Reference** : **CHI/00ML/F77/2024/0013**

**Property** : **91 Whitehawk Road, Brighton, East  
Sussex. BN2 5FH**

**Applicant/Tenant** : **D & J Cheverton**

**Representatives** : **Miss DJ Cheverton and Mr J Cheverton  
(Daughter and son of applicant)  
(written representations)**

**Respondent/Landlord** : **The Guinness Partnership Ltd**

**Representative** : **None**

**Type of Application** : **Determination of a fair rent under  
section 70 of the Rent Act 1977**

**Tribunal Members** : **Mr C Norman FRICS (Valuer Chairman)  
Mr J Reichel BSc MRCIS  
Mr M Woodrow MRICS**

**Date of Decision** : **3 May 2024**

**Date of reasons** : **3 May 2024**

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**REASONS**

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## **Background**

1. On 27 October 2023, the landlord applied to the Rent Officer for registration of a fair rent of £104.74 per week for the above property, including services of £6.98 per week (variable).
2. The rent payable at the time of the application was £91.37 per week, including services of £5.25 per week (variable). The tenancy commenced on 1 August 1983.
3. On 11 December 2023, the rent officer registered a fair rent of £207 per week including £6.98 per week attributable to services (variable) with effect from the same date.
4. By an email received by the rent officer on 27 January 2024 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal. Although out of time, the Tribunal exercised its jurisdiction to accept the objection as the tenant was unwell and acted through her attorneys, namely her children, Miss DJ Cheverton and Mr J Cheverton.
5. On 5 March 2024, the Tribunal issued directions and a Reply Form to the parties. The matter was directed to be determined on the papers without a hearing unless either party objected, which neither did. The Tribunal directed that it would not inspect. The landlord was directed to provide its completed statement by 19 March 2024, with details of the property and any other representations. The tenant was directed to do likewise by 2 April 2024.
6. On 19 April 2024, the Tribunal found that the fair rent was £199 per week including an amount attributable to services of £6.98 per week (variable). It has issued a Notice of Decision with effect from that date.

## **The Landlord's Case**

7. The landlord did not respond to the appeal. However, the Tribunal did receive from the Rent Officer documents lodged with the Rent Officer Service. This included a detailed schedule of services showing a weekly amount of £6.98 attributable to the property. The landlord did not refer to any comparables.

## **The Tenant's Case**

8. The tenant did not respond to the appeal, but the Tribunal received her objection letter to the Rent Officer dated 27th January 2024 which may be summarised as follows. Mrs Cheverton is the sole tenant. The kitchen has not been in working order since 27 July 2021 as it has no running water. This was a consequence of a water leak for which the landlord was responsible. This also resulted in the kitchen being "ripped out" leaving an uneven floor. A rear window was also defective, but the landlord had

not replaced it. A post holding up the doorstep was rotten and had not been replaced. The tenant did not refer to any comparables.

### **Tenancy agreement**

9. The Tribunal was not supplied with a copy of a tenancy agreement.

### **The Property**

10. The Tribunal has relied on the application for rent registration (RR1), the rent register, Google Maps and the Energy Performance Certificate (EPC). From these sources it finds that the property is a mid-terrace two storey house of brick under a pitched tiled roof and appears to date from around 1970. The accommodation comprises three bedrooms, bathroom /WC, living room and kitchen. There are gardens to the front and rear. There is double glazing and gas central heating. Whitehawk is a Brighton suburb to the east of the city. The property fronts a busy road within an established residential area of east Brighton. Local amenities are available.

### **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 (other than personal circumstances) including the age, location and state of repair of the property.
12. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Tribunal* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Tribunal* [1999] QB 92 the Court of Appeal emphasised 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 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. In addition, the Tribunal is required to take into account the Rent Acts (Maximum Fair Rent) Order 1999 (see below).

### **Findings**

14. The Tribunal notes that the tenant's case was not challenged by the landlord. The Tribunal therefore accepts the tenant's case in relation to cited defects.
15. The Tribunal then determined what rent the landlord could reasonably expect to obtain for the property in the open market if it were let today

in the condition that is considered usual for such an open market letting, which would normally be as an assured shorthold tenancy. In the absence of comparables from the parties the Tribunal relied on its own general knowledge and experience. Market rents are usually expressed as a figure per month. It found that this was £1,600 per month.

16. However, the Tribunal then found that adjustments were required to reflect the lack of running water in the kitchen, the condition of the kitchen as described by the tenant and the uneven state of the floor. The Tribunal did not consider that the window or doorstep matters would affect rent.
17. The Tribunal found that the kitchen defects required a 35% adjustment. The Tribunal also considered that a Rent Act tenant has more onerous repairing obligations as compared to an assured shorthold tenant. The Tribunal therefore considered that this required a 5% adjustment. Therefore, in aggregate the adjustment required was 40% or £640 per month. This therefore left an adjusted rent of £960 per month.
18. The Tribunal found that there was no substantial scarcity in the locality of Brighton and Hove.
19. The uncapped fair rent determined by the Tribunal, for the purposes of section 70, was accordingly £960 per calendar month. This is equivalent to £221.54 per week, which the Tribunal rounded to £221.50 per week.
20. This rent was unaffected by the Rent Acts (Maximum Fair Rent) Order 1999 as it was below the maximum fair rent of £238.98 per week. (Details are provided on the back of the decision form).
21. The applicant did not take issue with the amount of rent attributable to services. However, the Tribunal is satisfied that the amount stated of £6.98 per week is correct.
22. Accordingly, the sum of £221.50 per week, including an amount for services of £6.98 per week will be registered as the fair rent with effect from 3 May 2024 being the date of the Tribunal's decision.
23. The fair rent figure determined by the Tribunal is the maximum rent that can be charged for the property and is fixed until the next registration. The landlord is under no obligation to charge the full amount.

**Name:** Mr Charles Norman FRICS

**Date:** 3 May 2024

## **ANNEX - RIGHTS OF APPEAL**

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.