



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

Case reference : **CHI/43UB/F77/2024/0021**

Property : **8 Thrupps Avenue, Hersham, Walton-on-Thames, Surrey, KT12 4NA**

Applicant (Landlord) : **Clinton Properties c/o Pearce & Co**

Representative : **None**

Respondent (Tenant) : **Mrs S Doman**

Representative : **None**

Type of application : **Section 70 of the Rent Act 1977**

Tribunal members : **Mr D Jagger MRICS
Mr N Robinson FRICS
Mr M Woodrow MRICS**

Venue : **Paper determination**

Date of decision : **30th May 2024**

DECISION

The Tribunal determines £304 per week is to be registered as the fair rent for the above property with effect from 30th May 2024 being the date of the Tribunal's decision.

The reasons for this decision are set out below.

Reasons

Background

1 On 29th January 2024 the Landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £315 per week for the property.

2 The rent registered at the time of the application was £245 per week effective from 10th March 2022.

3 On 12th March 2024 the Rent Officer registered a fair rent of £256 per week, effective from the 12th March 2024. The rent increase imposed by the Rent Officer had not been “capped” or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 (the Order).

4 By an email dated 22nd March 2024 from Pearce and Co, the Landlord objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal.

The law

5 When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It also must disregard the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant, on the rental value of the property. Section 70(2) of the Rent Act 1977 imposes on the Tribunal an assumption that the number of persons seeking to become tenants of similar dwelling house in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling houses in the locality which are available for letting on such terms. This is commonly called ‘scarcity’.

In *Spath Holme Ltd v Chairman of the Greater Manchester Council (1995) 28 HLR 107* and *Curtis v London Rent Assessment Tribunal [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).

The Rent Acts (Maximum Fair Rent) Order 1999 places a “cap” on the permissible amount of the increase of a fair rent between one registration and the next, by reference to the amount of the increase in the United Kingdom Index of Retail Prices between the dates of the two registrations. Where the cap applies the Rent Officer and the Tribunal is prevented from increasing the amount of the fair rent that it registers beyond the maximum fair rent calculated in accordance with the provisions of the Order and the mathematical formula set out in the Order.

By article 2(7) of the 1999 Order the capping provisions do not apply “in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.”

Facts found without Inspection

6 The parties did not request the Tribunal to inspect the property and the Tribunal were satisfied this was not required and relied on the information provided by the parties together with its expert knowledge.

7 The property is a 1930’s built two bedroom semi detached house. It appears to be of solid brick construction with mainly rendered and part brick faced elevations under a tiled roof. It is located in an established residential area close to amenities in Hersham.

8 The accommodation comprises: Ground Floor - two reception rooms, kitchen. First Floor - two bedrooms, bathroom/wc. Outside - There is a rear garden and parking area on the frontage.

9 There is gas central heating system to radiators with replacement boiler installed by the Landlord in 2021 and double glazed windows.

Terms of the tenancy

10 It is unknown when the Periodic Protected Tenancy commenced, and the Tribunal were not provided with a copy of any agreement. The Rent Register entry, however, suggests the tenancy commenced in 1969. It is assumed that the landlord is responsible for structural repairs and external decoration; the tenant is responsible for internal decorations. The property was let unfurnished.

Tenant's improvements and Condition

11 The Tenant originally installed the central heating system and as mentioned above, the Landlord fitted a new boiler in 2021 which they now maintain. The kitchen fittings are dated. The tenant provided carpets, curtains and white goods.

Evidence

12 The Tribunal had copies of the Valuation Office Agency correspondence and including the rent registers effective on the 10th March 2022 and 12th April 2024 together with the calculations for the most recent registration.

13 The Landlord provided information in connection with the property in the form of a completed Rent Appeal Statement with details of a comparable in the same road. The Tenant did not provide any Statement in evidence. The Tribunal issued Directions for the conduct of the case on the 12th April 2024.

Valuation

14 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 condition that is considered usual for such an open market letting.

15 Based upon the comparable evidence provided by the landlord together with its expert knowledge, the Tribunal consider that the subject property, if finished to a reasonable standard would be likely to attract a rent let on an assured shorthold tenancy, for **£380** per week (£1,650 per month). This figure is based upon the comparable evidence for 16 Thrupps Avenue which is a similar property recently refurbished with a double garage let at £1,750 per month. The Tribunal made an adjustment of £100 pm for the garage.

16 We now need to **adjust that hypothetical net rent of £380 per week** to allow for the differences between the terms of this tenancy, the lack of white goods, carpets and curtains and the tenants decorating responsibilities, disregarding the effect of any tenant's improvements and any disrepair or other defect attributable to the tenant.

17 The Tribunal has considered very carefully the parties' submissions and the notes prepared by the Rent Officer.

18 Using our own expertise, we considered that deductions of 20% should applied to take into account the terms of the tenancy, no white goods, carpets and curtains and dated kitchen and bathroom fittings. This provides a deduction of £76 per week from the hypothetical rent. This reduces the figure to £304 per week.

19 It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the Tribunal's estimate of the amount by which the rent would need to be reduced to attract a tenant.

Scarcity

20 Thirdly, the Tribunal then went on to consider whether a deduction falls to be made to reflect scarcity within the meaning of section 70(2) of the 1977 Act. The tribunal followed the decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee*, in which it was held that scarcity over a wide area should be considered rather than scarcity in relation to a particular locality.

21 In the Tribunal's opinion there should be no deduction for scarcity as it is considered there is a reasonable supply of rented properties in the area to satisfy demand.

Conclusion

22 The capping provisions of the Rent Acts (Maximum Fair Rent) Order do not apply and therefore the above figure applies. The fair rent in accordance with the attached calculations is **£304 per week**.

23 Therefore, this is the fair rent to be registered with effect from the **30th May 2023** being the date of the Tribunal's decision.

24 Detailed calculations for the capped maximum fair rent are provided attached to the decision.

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).