



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

Case Reference	:	CAM/26UF/F77/2023/0027
Property	:	38 Orchard Road, Hitchin Herts SG4 0BP
Applicant	:	Mr K Bird (Tenant)
Representative	:	None
Respondent	:	Regis Group Plc (Landlord)
Representative	:	None
Type of Application	:	S.70 Rent Act 1977 – Determination of a new fair rent
Tribunal Members	:	Mr N. Martindale FRICS
Date and venue of Meeting	:	18 September 2023 First Tier Tribunal (Eastern) HMCTS Cambridge CB1 1BA
Date of Decision	:	18 September 2023

REASONS FOR DECISION

Background

- 1 By an application 22 March 2023, the landlord applied to the Rent Officer for registration of a fair rent of £175 pw. The rent payable at the time of the application was £140 per week from May 2021.
- 2 On 17 May 2023, the Rent Officer registered a fair rent of £177.50 pw with effect from 17 May 2023. By a letter dated 11 June 2023 to Rent Officer, the tenant objected to the new fair rent. The First Tier Tribunal

was notified of this objection and a request for a fresh determination of the rent.

Directions

- 3 Directions dated 25 July 2023 were issued for case progression. Neither party requested a hearing. The tenant's written representations dated received 11 June to the VOA Rent Officer were forwarded to the Tribunal. No representations were received from the landlord. There was no inspection.

Tenant's Representations

- 4 The tenant helpfully completed the standard Reply Form. They confirmed the accommodation as 2 living rooms to the ground floor, with a small kitchen and ground floor bathroom and WC to the rear. The first floor had 2 double and 1 small single bedroom described as a box room. There was double glazing but, no central heating. The tenant had provided carpets and curtains and white goods. There was a garden to front and rear but, no off street parking.

Landlord's Representations

- 5 No representations were received from the landlord by the Tribunal.

Inspection

- 6 The Tribunal did not inspect the Property. The Tribunal was however able to externally view the Property from Google Streetview (@ March 2019). The mid terraced house appears to date from the 1900's on residential road on the outskirts of the town. The Property has a double pitched slate tiled roof and front elevation of brick. There appeared to be single plastic framed double glazed windows. Externally the Property appears to be in fair condition. There was no off street parking. There were no parking restrictions in the road.

Law

- 7 When determining a fair rent the Committee, 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.
- 8 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 emphasized

- (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).
- 9 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an un-modernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 10 On the evidence of the comparable lettings and our own general knowledge of market rent levels in Hitchin, we accept that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £350 pw. This then, is the appropriate starting point from which to determine the rent of the property as it falls to be valued.
- 11 A normal open market letting would include carpets, curtains and "white goods", here the tenant provided these. The Tribunal assumes that the kitchen and bathroom whilst functional are basic, the latter being less favourably located on the ground floor. There is no central heating. These deductions total £105, leaving the adjusted market rent at £245 pw.
- 12 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was no scarcity in the locality of Hitchin for this type of property and therefore makes no further deduction from the adjusted market rent.
- 13 The fair rent to be registered on this basis alone would be £245 pw but, the new rent is limited by the statutory Maximum Fair Rent Cap calculation. This limits any increase to the change in RPI between the date of the last registration of a fair rent and the current, plus 5%. The calculations are shown in the MFR form and this caps the new rent at £183.50 pw. The fair rent from and including the date of determination, is therefore £183.50 pw. The Rent Act makes no

allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent.

- 14 The landlord is entitled but, not compelled, to charge the tenants rent at the registered figure from the effective date. However the landlord may not charge more than the fair rent.

Chairman N Martindale FRICS

Dated 18 September 2023

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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).