



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

**Case Reference** : **CHI/00ML/F77/2024/0015**

**Property** : **SFF (Flat 3)  
72 Montpelier Road  
Brighton  
BN1 3BD**

**Applicant Landlord** : **Perth Group Holdings Limited**

**Representative** : **None**

**Respondent Tenant** : **Mr E Hill**

**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 S J Hodges FRICS  
Mr M C Woodrow MRICS**

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

**Date of Decision** : **18<sup>th</sup> April 2024**

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**DECISION**

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## Summary of Decision

On 18<sup>th</sup> April 2024 the Tribunal determined a Fair Rent of £800 per month with effect from 18<sup>th</sup> April 2024.

## Background

1. On 19<sup>th</sup> December 2023 the Landlord applied to the Rent Officer for registration of a fair rent of £750 per month.
2. The rent was last registered on the 4<sup>th</sup> January 2022 at £650 per month following a determination by the Rent Officer. This rent was effective from 13<sup>th</sup> January 2022.
3. A new rent was registered by the Rent Officer on the 29<sup>th</sup> January 2024 at a figure of £675 per month with effect from 29<sup>th</sup> January 2024.
4. On 16<sup>th</sup> February 2024 the Landlord appealed against the Rent Officer's decision 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 12<sup>th</sup> 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.
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. Both parties made a submission to the Tribunal which was copied to the other party.
9. These reasons address **in summary form** the key issues raised by the parties. They do not recite each and every 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

10. 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.
11. 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).
12. 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

13. From the information provided and available on the internet, the property can be described as a second floor flat within a 5-storey (including basement) mid-terraced building which dates from about 1840. The building is listed and has full width segmented bays to the front. There are 6 flats within the building.
14. The property is situated about ¼ mile from Brighton beach in a residential area. All main amenities are available within the town.
15. The accommodation is described as a Living room, Kitchen, Bedroom and Shower room with WC. There is residents permit parking on the road and the Energy Performance Rating is 'D'.

### **Evidence and Representations**

16. The original tenancy began in November 1979.
17. The Rent Officer held a consultation with both parties at the property on 23<sup>rd</sup> January 2024. The Tenant has paid for some radiators, fitted new kitchen units where there are none and replaced the bathroom sink all of which should be regarded as Tenant's improvements.
18. In his calculation the Rent Officer makes deductions from an estimated open market rent of £950 per month to reflect Tenant's improvements, white goods, carpets and curtains all being provided by the Tenant, the Tenant's liability for internal decoration and for scarcity.
19. The Landlord states that there is partial double glazing and refers to a number of recent open market lettings and properties advertised in the area. Flat 2 in the same building, of similar size to Flat 3, was let for £1,200 twelve months ago.
20. The Landlord argues that there is no scarcity in Brighton and at the date of making its submission there were 252 one-bedroom flats available to rent in the town.
21. The Tenant states that, in addition to the kitchen units, he provided the electric fires which comprise his heating, and that he has blocked up and sealed fireplace openings.
22. 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**

23. 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.
24. 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.
25. In determining an 'open market rent' the Tribunal had regard to the evidence supplied by the parties 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 £1,150 per calendar month.

26. 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 £1,150 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.
27. Further adjustments were necessary to reflect the Tenant's liability for internal decoration and his provision of kitchen units and heating appliances. An adjustment would also be made to reflect the basic condition of the Shower Room.
28. The Tribunal therefore considered that this required a total deduction of £350 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	£20
Unmodernised basic shower room	£50
Unmodernised kitchen	£100
Lack of heating	<u>£120</u>
TOTAL per month	£350

29. The Tribunal noted the number of properties available to rent in the area as advertised on the internet by Rightmove and Zoopla, and the comments from the Landlord about scarcity, and concluded that there was not any substantial scarcity element in the area of Brighton.

### **Decision**

30. 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 £800 per calendar month.
31. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £816.50 permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly the Tribunal determines that the lower sum of £800 per month is registered as the Fair Rent with effect from 18<sup>th</sup> April 2024.
32. The rent assessed by the Tribunal is higher than the rent requested by the Landlord within its application. The Landlord is not obliged to charge this higher rent.

**Accordingly, the sum of £800.00 per month will be registered as the Fair Rent with effect from the 18<sup>th</sup> 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](mailto: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.