



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

Case Reference : **CHI/00HN/F77/2024/0025**

Property : **26A Wilson Road
Bournemouth
Dorset
BH1 4PH**

Applicant Landlord : **Bourne Collyer Ltd**

Representative : **None**

Respondent Tenant : **Mrs P Ashford**

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 P E Smith FRICS
Mr S J Hodges FRICS**

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

Date of Decision : **14th August 2024**

DECISION

Summary of Decision

On 14th August 2024 the Tribunal determined a Fair Rent of £620 per month with effect from 14th August 2024.

Background

1. On 21st February 2024 the Landlord applied to the Rent Officer for registration of a fair rent of £1,000 per month.
2. The rent was previously registered on the 17th June 2014 at £446 per month with a noted amount of £6.67 **included** in the rent to cover any services. This rent was effective from 17th June 2024.
3. A new rent was registered by the Rent Officer on the 13th May 2024 at a figure of £625 per month. This new rent was effective from 13th May 2024. On this occasion the Rent Officer did not estimate the cost of any services included within the rent.
4. On 12th June 2024 the Landlord objected to this new rent 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 5th July 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. The Tenant made a submission to the Tribunal, which was copied to the Landlord. The Landlord sent a further email to the Tribunal on Saturday 10th August 2024, therefore not seen by the Tribunal until Monday 12th August 2024.
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.
13. The tenancy is a statutory (protected) periodic tenancy and as such (not being for a fixed tenancy of 7 years or more) is subject to section 11 of the Landlord and Tenant Act 1985 which sets out the landlords statutory repairing obligations; the tenant is responsible for internal decorations.

The Property

14. From the information provided and available on the internet, the property can be described as a self-contained first floor flat in, what was until recently, a building of 2 flats situated above 2 garages, situated in a residential area less than 2 miles northeast of the centre of Bournemouth.
15. The accommodation is described as comprising a Living Room, Kitchen, 2 Bedrooms, Bathroom with WC, a communal Hall and Garden.

16. Windows are double glazed but there is no off-street parking. The Energy performance rating is 'E'.

Evidence and Representations

17. The Tribunal had to first decide whether to accept the email sent by the Landlord on Saturday 10th August 2024. This email gave some further explanation of the circumstances relating to the recent extension to the property which assisted the Tribunal in reaching its decision. The Tribunal did not consider that the Tenant was prejudiced in any way by the Tribunal taking the Landlord's comments into account.
18. The Rent Officer records that the tenancy began in 1977 whilst the Landlord states that it began in 1979.
19. The Tribunal noted that the rent had not been re-registered for 10 years.
20. The Rent Officer assessed an open market rent for the property of £850 per month and made several deductions to reflect condition and the Tenant's provision of some items.
21. The Tenant had written to the Rent Officer, letter received 15th March 2024, to say that she and her late husband had made several improvements to the property over many years including the provision of a hot water system, individual gas fires and an electric radiator in the bathroom.
22. The Tenant had provided all fixtures and fittings within the flat and had landscaped the entire garden. Mrs Ashford is complimentary about her new Landlord who has converted the 2 ground floor garages into an additional residential unit which has involved an extension into part of the garden that she had cultivated. She said that this extension has involved the loss of an outside store, and the Tenant now has to share the relatively small garden with two other parties rather than one.
23. The Tenant states that the carpets, curtains and white goods are all provided by her and the Landlord has fitted a new double-glazed window to her kitchen. She also states that there is some dampness in her main rooms which she "keeps at bay" with a dehumidifier and mould spray.
24. With the original application dated 21st February 2024 the Landlord described the works she had carried out to the building, including a new roof with improved insulation. She also states that the flats above and below number 26a are both let for £1,200 per month.
25. The Landlord's email dated 20th August 2024 states that the Landlord generally agrees with the comments made by the Tenant, explains that a small outside toilet was lost when the new ground floor flat was formed and states that the Landlord has carried out various works to remedy any dampness within the property.

26. 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

27. 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. Neither party had requested an inspection or hearing. Having read and considered the papers it decided that it could do so.
28. 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.
29. 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 Bournemouth. Having done so it concluded that such a likely market rent would be £1,100 per calendar month. This reflects the fact that the garden is now shared by 3 flats rather than 2, and that there is no outside store.
30. 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 £1,100 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.
31. Further adjustments were necessary to reflect the Tenant's liability for internal decoration, the dated Kitchen and Bathroom, the lack of central heating and low EPC rating, and some internal dampness/mould.
32. The Tribunal therefore considered that this required a total deduction of £480 per month made up as follows:

Tenant's provision of carpets and curtains	£50
Tenant's provision of white goods	£30
Tenant's liability for internal decoration	£50
Unmodernised bathroom	£50
Unmodernised kitchen	£150
Lack of central heating/low EPC	£100
General wants of repair	<u>£50</u>
TOTAL per month	£480

33. The Tribunal noted the number of properties available to rent in the area as advertised on Rightmove and Zoopla and concluded that there was no substantial scarcity element in the area of Bournemouth.

Decision

34. 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 £620 per calendar month.
35. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of 696.50 permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly we determine that the limit set by the Order does not apply in this case.

Accordingly the sum of £620 per month will be registered as the Fair Rent with effect from the 14th August 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.