



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

Case Reference : **CHI/45UG/F77/2024/0027**

Property : **Star Cottage
Brighton Road
Newtimber
Hassocks
West Sussex
BN6 9BH**

Applicant Landlord : **A Clay**

Representative : **H J Burt & Sons**

Respondent Tenant : **Mrs J Orlebar**

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 £11,659 per annum with effect from 14th August 2024.

Background

1. On 18th April 2024 the Landlord applied to the Rent Officer for registration of a fair rent of £11,578 per annum, equivalent to £964.83 per month.
2. The rent was previously registered on the 27th December 2012 at £7,200 per annum, equivalent to £600 per month following a determination by a Rent Officer.
3. On 11th June 2024 the Rent officer held a consultation with the Landlord's Agent, the Tenant and Chris Barker (son of the tenant) on speakerphone.
4. A new rent was registered by the Rent Officer on the 18th June 2024 at a figure of £11,592, equivalent to £966 per month. This new rent was effective from 18th June 2024.
5. On 25th June 2024 the Tenant objected to the new assessment and the matter was referred to the First-Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee.
6. 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.
7. The Tribunal office issued directions on 9th 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.
8. 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.
9. Both parties made a submission to the Tribunal which was copied to the opposing party.
10. 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

11. 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.
12. 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).
13. 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.
14. 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

15. From the information provided and available on the internet, the property can be described as Grade II Listed single storey former stables converted into a detached cottage and garden with accommodation comprising a Living Room, Kitchen, Bathroom, 3 Bedrooms and an Attic Room accessed by narrow stairs.
16. The property is situated in a rural area just off the A23 between Brighton and Crawley. The nearest major town with amenities is Brighton, about 7 miles away. There is no public transport nearby.

17. The Energy Performance Rating is 'D' but the assessment was carried out in 2017 prior to certain works to the property which may have improved this rating.

Evidence and Representations

18. The original tenancy began on 7th April 1973.
19. The Rent Officer assessed an open market rent for the property of £16,800 (£1,400 per month) and made deductions for Tenant's decoration liability, unmodernised kitchen and bathroom, Tenants' provision of carpets and curtains and scarcity.
20. The Landlord has carried out substantial building works including roof replacement, new double-glazed windows, chimney and fascia repairs. which are mostly repairs rather than improvements.
21. The Landlord's Agent states that the property has electric night store heating and double-glazed windows, but no garage or parking. The Agent concedes that the kitchen is old and basic but serviceable and suggests that damp issues may have been due to condensation which should be improved following the recent building works.
22. The Agent provided a wide range of 2- and 3-bedroom properties to let in the general area with asking rents from £1,095 to £1,950 per month.
23. The Tenant's submission confirms that she provides carpets, curtains and white goods, and that she considers the rent as determined, taking into account the consultation note, is more reasonable than the Landlord's valuation.
24. 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

25. 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.
26. 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.
27. 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 West Sussex. Having done

so it concluded that such a likely market rent would be £1,500 per calendar month.

28. 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 £1,500 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.
29. Further adjustments were necessary to reflect the Tenant's liability for internal decoration, the dated Kitchen and Bathroom lack of full central heating and general condition, including some dampness.
30. 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	£75
Unmodernised kitchen	£150
Night store heating only	£50
General repair and condition including some dampness	<u>£75</u>
TOTAL per month	£480

31. The Tribunal noted the number of 3-bedroom 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 West Sussex.

Decision

32. 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 £1,020 per calendar month which is £12,240 per annum.
33. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £11,659 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 lower sum of £11,659 per annum is registered as the Fair Rent with effect from 14th August 2024.

Accordingly the sum of £11,659 per annum 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.