



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

Case reference : CHI/18UC/F77/2024/0028

Property : 13 Holne Court, Kinnerton Way, Exeter,
Devon, EX4 2NA

Applicant Tenant : Miss E Price

Representative : None

Respondent Landlord : Sanctuary Housing

Representative : None

Type of application : Determination of a registered rent
Section 70 Rent Act 1977

Tribunal members : Regional Surveyor J. Coupe FRICS
Mr M.J.F. Donaldson FRICS

Date of decision : 28 October 2024

REASONS

Decision of the Tribunal

On 28 October 2024 the Tribunal determined that a sum of £445.50 per month will be registered as the Fair Rent with effect from the same date.

Background

1. On 13 May 2023 the Rent Officer received an application from the landlord, dated 9 May 2024, for registration of a Fair Rent of £266.90 per month in lieu of the passing rent of £252.63 per month. The tenancy is a shared ownership tenancy, with the tenant owning a 25% share. Monthly costs of managing the lease and buildings insurance are stated as:
 - (i) Building Insurance Charge £10.81
 - (ii) Management Charge £12.26
2. On 17 June 2024 the Rent Officer registered a Fair Rent of £439.70 per month effective from the same date, with nil amount attributable to services. At paragraph (g) of the Register, the Rent Officer remarks “*Gross rent £565.19 per Cal. Month (25% ownership)*”.
3. The previous registered rent, registered on, and effective from, 27 January 2017, was £369.07 per month, with an amount of £12.28 per month attributable to services. At paragraph (g) of the Register the Rent Officer remarks “*Gross Rent £475.72 per Cal Month (25% ownership)*”.
4. On 25 June 2024, received by the Rent Officer on 1 July 2024, the tenant objected to the registered Fair Rent and requested the Rent Officer to refer the matter to the Tribunal. The tenant stated that she had received a letter dated 14 May 2024 increasing the rent from £252.63 to £266.90 per month which she considered fair but then received another letter dated 17 June 2024 advising that the registered rent was to be £439.70 which she did not accept.
5. The tenancy appears to be a statutory protected tenancy commencing 3 April 1985 (previous tenant). The Tribunal was not provided with a copy of the tenancy agreement.
6. On 16 July 2024 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No objections were received.
7. The Directions required the landlord and tenant to submit their statements to the Tribunal by 30 July 2024 and 13 August 2024 respectively. No statement of case was submitted by the landlord.
8. The Tribunal concluded that the matter was capable of being determined fairly, justly and efficiently on the papers, consistent with the overriding objective of the Tribunal.

9. These reasons address in **summary form** the key issues raised by the parties. They do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal's view, are fundamental to the determination.

Law

10. When determining a Fair Rent the Tribunal, in accordance with section 70 of the Rent Act 1977, must have regard to all the circumstances including the age, location and state of repair of the property. The Tribunal must disregard the effect, if any, of any relevant tenant's improvements and the effect of any disrepair or any 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) 28HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 the Court of Appeal emphasised:

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 to that of a regulated tenancy, and

That for the purposes of determining the market rent, assured tenancy market rents are usually appropriate comparables; adjusted as necessary to reflect any relevant differences between the comparables and the subject property.

12. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent, less variable service charge, may be increased to a maximum 5.00% plus Retail Price Index since the last registration.
13. Under paragraph 7 of the Order an exemption to this restriction applies where the Landlord proves that repairs or improvements undertaken have increased the rent by at least 15% of the previous registered rent.
14. In addition, in appropriate cases there are limits on the maximum weekly rent in accordance with the Rent Standard 2023 produced by the Regulator of Social Housing. It should be noted however, that the Rent Standard sets the maximum amount of weekly rent recoverable by Registered Providers, but this operates outside the provisions of the Rent Act 1977 and has no bearing on the Tribunal's function in determining a fair rent under section 70 of the 1977 Act.

The Property

15. In accordance with current policy, the Tribunal did not inspect the property, but did view it externally via information obtained from publicly available online platforms.

16. The Rent Register describes the property as a terraced house, built circa 1981-2000 with accommodation comprising one room and a kitchen on the ground floor, plus two rooms and a bathroom on the first floor. The property is said to have no central heating. Externally, the property has a garden and a car space.
17. In contrast, the tenant describes the property as a three-storey terraced house with one bedroom and a bathroom on the first floor, and a further bedroom on the second floor. The Tribunal favours, and adopts, the tenant's description.
18. Heating, double glazing, carpets, curtains and white goods are provided by the tenant.

Submissions

19. The tenant says that she has replaced all of the electrics in the property and has installed electric radiators in place of damaged storage heaters. She has also instructed two safety checks, replaced the bathroom suite and installed double glazed windows and doors throughout. The estimated total cost of such work exceeds £14,000.
20. The tenant explains that the property is impossible to heat due to inadequate insulation, that the kitchen units are dated, and that some general maintenance and minor repairs are outstanding.
21. A series of undated but helpful photographs of the property were provided by the tenant.
22. No representations were provided by the landlord.

Determination

23. The Tribunal has carefully considered all the submissions before it.
24. Statute, and case law, dictate that the starting point for determination of a Fair Rent is the open market rent for the property, which is usually derived from evidence of similar rental properties in the locality. Once the Tribunal decides the market rent, deductions are made to reflect the differences in tenancy and any scarcity of similar property. Where, as in this case, the landlord is a social housing provider, the amount of rent payable by the tenant is typically lower than the rent registered by the Rent Officer. It should be remembered that the registered rent is the **maximum** that can be charged to the tenant, and there are often circumstances where the landlord is not seeking to apply a full increase. In such cases, the tenant is encouraged to contact the landlord to discuss.
25. In the first instance, the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the **open market** (not social housing) if it were let today in the condition that is considered usual for such an open market letting.

26. Neither party submitted any comparable rental evidence. Accordingly, the Tribunal relies upon its own experience as a specialist and expert property Tribunal and its knowledge of rental values in the locality, to determine that the open market rent, in good tenable condition, is £850.00 per month.
27. Once the hypothetical rent was established, it was necessary for the Tribunal to determine whether the property meets the standard of accommodation, repair and amenity of a typical modern letting. In this instance the Tribunal determined that the subject property falls short of the standard required by the market.
28. The Tribunal finds it undisputed that the tenant installed electric heating, double glazing and replaced the bathroom suite. Furthermore, the Tribunal finds that the white goods, carpets and curtains are provided by the tenant. The tenant's comments concerning the dated kitchen fittings are also noted.
29. In reflection of such differences the Tribunal makes a deduction of 20% from the hypothetical rent to arrive at an adjusted rent of £660.00 per month.
30. The Tribunal then directed itself to the question of scarcity, as referenced in paragraph 11 above and, in arriving at its decision on the point, takes account of the following:
 - a. The Tribunal interpreted the 'locality' for scarcity purposes as being the whole area of Exeter (i.e. a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent);
 - b. Availability of property to rent;
 - c. Local Authority and Housing Association waiting lists;
 - d. Property rental prices which could be an indicator of increased availability of housing and a reduction in scarcity;
31. The tenant made no submissions on the point of scarcity. However, the members of the Tribunal have, between them, many years of experience of the residential letting market and that experience, coupled with the above, leads them to the view that there is currently a shortage of similar properties to let in the locality defined above. Accordingly, the Tribunal adopts a deduction of 10% for scarcity, to arrive at an adjusted rent of £594.00 per month, such figure representing the full open market rental value.
32. The tenant's 75% share of such rent being calculated as £445.50 per month.
33. As referred to above, the determined rent is the open market rent as opposed to a social housing provider rent, where rents charged are typically less than those achieved in the open market. The tenant is, again, encouraged to speak to her landlord in such regard.

Maximum Fair Rent

34. This is the rent calculated in accordance with the Maximum Fair Rent Order, details of which are shown on the rear of the Decision Notice.
35. The Rent Acts (Maximum Fair Rent Order) 1999 restricts the amount by which the rent, less any variable service charge, may be increased, to a maximum 5% plus RPI since the last registration.
36. The only exception to this restriction is provided under paragraph 7 of the Order where a landlord carries out repairs or improvements which increase the rent by 15% or more of the previous registered rent. The Tribunal determined that such exception does not apply in this instance.
37. The rent to be registered in this application is not limited by the Fair Rent Acts (Maximum Fair Rent Order) 1999 because it is below the Maximum Fair Rent that can be registered of £560.50 per month prescribed by the Order.
38. The Tribunal accordingly determines that the rent of **£445.50 per month is registered as the Fair Rent with effect from 28 October 2024**, that being the date of the Tribunal's decision. Such sum to reflect the shared ownership.
39. The rental figure determined by the Tribunal is the **maximum** rent that can be charged for the property and is fixed until the next registration. The landlord is under no obligation to charge the full amount.

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.