



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

Case Reference : **HAV/00HG/F77/2024/0501**

Property : **43 Providence Street
Plymouth
Devon
PL4 8JQ**

Applicant Landlord : **Mr P Woolridge**

Representative : **None**

Respondent Tenant : **Mr D Johns**

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 M C Woodrow MRICS**

Date of Inspection : **19th November 2024**

Date of Decision : **19th November 2024**

DECISION

Summary of Decision

On 19th November 2024 the Tribunal determined a Fair Rent of £159.50 per week with effect from 19th November 2024.

Background

1. On 21st June 2024 the Landlord applied to the Rent Officer for registration of a fair rent of £160 per week. This would equate to £693.33 per month.
2. The rent was previously registered on the 4th August 2022 at £135.38 per week following a determination by the Rent Officer. This rent equates to £586.65 per month and was effective from 8th September 2022.
3. A new rent was registered by the Rent Officer on the 23rd July 2024 at a figure of £140.68 per week. This new rent equates to £609.68 per month and was effective from 8th September 2024.
4. On 31st July 2024 the Landlord objected to the 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 23rd August 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.
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 sent an appeal statement to the Tribunal which had been copied to the other party.
9. Within the Landlord's Appeal Statement were copy letters to the Rent Officer in which the Landlord had requested a consultation before the new rent was fixed. In the circumstances the Tribunal decided that an inspection should be made, and a hearing arranged for the parties to state their respective case.
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. The Tribunal inspected the property on the morning of 19th November 2024. The property comprises a mid-terraced house fronting directly to the pavement situated within an old established residential area close to the City Centre and University. There is a good range of shopping amenities and transport facilities within reach.

16. The accommodation includes an Entrance Hall with access through to a small rear Courtyard, a Living Room and Kitchen all at ground level. A second door from the Kitchen also gives access to the Courtyard where there is covered store.
17. Stairs rise from the Hall to a first-floor landing giving access to 2 Bedrooms and a Bathroom with WC. A narrow staircase rises from the Landing giving access to a cupboard with Hot Water Cylinder and access onto a flat roof above the rear Bedroom.
18. There is no fixed heating system. Windows are double glazed. The Energy Performance Certificate has expired but the property was previously rated 'G'.
19. There is limited on street parking mostly controlled by a residents permit scheme.

Evidence and Representations

20. The original tenancy began in 1987.
21. The Rent Officer assessed an open market rent for the property at £750 per month and then applied deductions for tenant's internal decoration liability, lack of white goods and central heating, for scarcity and basic electrical wiring.
22. The Tenant states that where there are floorcoverings they are supplied by the Landlord (the Living Room is bare boards) but that he supplied the curtains, and that the Landlord supplies the fridge and cooker but no washing machine.
23. The Landlord states that new kitchen fittings were provided 9 years ago, that new bathroom fittings have been installed in the last 2 years and a new front door recently fitted.
24. The Tenant confirms that the new kitchen fittings, bathroom fittings and front door have all been installed. In his submission the Tenant says that the front door doesn't shut properly but confirmed at the inspection that this has now been remedied.
25. The Tenant states that there is no thermostat or regulator for the Electric immersion heater- it is either on or off.
26. During the inspection it was noted that various works to upgrade the insulation of the external walls, some of which were of single skin thickness only, had been undertaken by the Landlord.
27. The Landlord referred to several comparable properties with rents ranging from £850 to £1,100 per month and the Tenant referred to comparable properties in Providence Street let for £675 per month and £700 per month.

The Hearing

28. A Hearing had been scheduled to be held at Plymouth Magistrates Court immediately following the Inspection.
29. Mr Johns, the Tenant, informed the Tribunal that due to another engagement he would not be able to attend the Hearing.
30. Mr Wooldridge, the Landlord, questioned what purpose could usefully be served by a hearing as he had no further submissions to make.
31. During the inspection it had become clear that the parties were on agreeable terms with each other. The Tribunal offered the parties the opportunity to hold a short hearing immediately and, in the property, to which both parties agreed. The Tenant, when asked by the Tribunal, confirmed that he did not feel coerced into holding the hearing in his Living Room.
32. The Landlord reiterated the details of the comparable properties he had provided in his written submission and confirmed again the improvements that he had made to the property over the years of his ownership.
33. The Tribunal was told that the electrical wiring had been reviewed by an electrician and that an EICR Certificate obtained. This was not produced for the Tribunal.
34. The Tenant reiterated the details of the comparable properties he had provided, and he also confirmed again the improvements that had been made over the previous years.
35. Before the Hearing was concluded the parties were again asked to reassure the Tribunal that they did not feel coerced into holding the Hearing at the property and that they had made all the points that they wished to make. They both confirmed this to be the case.

Consideration and Determination

36. 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.
37. 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 city of Plymouth. Having done so it concluded that such a likely market rent would be £850 per calendar month.

38. 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 £850 per calendar month particularly to reflect the fact that the curtains and washing machine were provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
39. Further adjustments were necessary to reflect the Tenants liability for internal decoration and the absence of a fixed heating system.
40. The Tribunal therefore considered that this required a total deduction of £125 per month made up as follows:

Lack of fixed heating system	£85
Tenant's provision of washing machine	£10
Tenant's liability for internal decoration	£25
Tenant's provision of curtains	£5
TOTAL adjustment per month	£125

41. The Tribunal noted the number of 2-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 Plymouth.

Decision

42. 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 £725 per calendar month equating to £167.31 per week.
43. The Section 70 Fair Rent determined by the Tribunal is above the maximum fair rent of £159.50 per week 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 £159.50 per week is registered as the Fair Rent with effect from 19th November 2024.

Accordingly the sum of £159.50 per week will be registered as the Fair Rent with effect from the 19th November 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.