



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

Case Reference : **HAV/00HY/F77/2024/0602**

Property : **49 Park Street
Trowbridge
Wiltshire
BA14 0AU**

Applicant Landlord : **Mr C Gale**

Representative : **None**

Respondent Tenant : **Mrs S Brett-Smith**

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 J S Reichel MRICS**

Date of Inspection : **21st January 2025**

Date of Decision : **21st January 2025**

DECISION

Summary of Decision

On 21st January 2025 the Tribunal determined a Fair Rent of £700 per month with effect from 21st January 2025.

Background

1. On 10th July 2024 the Landlord applied to the Rent Officer for registration of a fair rent of £925 per month to replace a rent passing of £640 per month. This would be the first registration of a statutory Fair Rent for the property.
2. The Rent Officer held a consultation at the property on 5th September 2024 and a Fair Rent was registered by the Rent Officer on the 10th September 2024 at a figure of £691.25 per month. This new rent was effective from 10th September 2024.
3. On 23rd September 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.
4. The Tribunal office issued directions on 8th October 2024 and both parties completed a Fair Rent Appeal Statement. Following receipt of the statements the Tribunal decided that an inspection of the property should be made, and a hearing held for the parties to state their respective cases. The inspection and hearing were arranged for 21st January 2025.
5. Both parties had been 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. Following the submission from the Tenant the Landlord made a case management application with a further submission. This was accepted by the Tribunal on 26th November 2024.
6. 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

7. 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.

8. 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).
9. 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.
10. 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.

Inspection

11. The Tribunal inspected the property at 10.00am on 21st January 2025. The Tribunal began by explaining that it was to inspect the property and that the parties would be able to tender any evidence at the hearing scheduled for later that day.
12. The Landlord and Tenant both attended the inspection and were found to be on good terms, and both stated that they would not be attending the hearing.
13. The property is an inner terraced two-storey dwelling house, situated in a one-way street, itself within a residential area close to the centre of Trowbridge. There are local shops within a reasonable distance.
14. The property is built of mainly brick elevations beneath a tiled roof. The accommodation comprises a Living Room, Kitchen/Diner and Bathroom with WC on the ground floor and two double Bedrooms on the first floor.

15. There is a small, covered yard outside the back door from the kitchen, a small front garden and a larger garden to the rear with a garage opening onto a rear vehicular access.
16. Mains water electricity and drainage are all connected. Except for the kitchen window all windows are double glazed.
17. The property has solar panels and a heat source pump to provide hot water and central heating. This was funded by a grant to Mrs Brett-Smith and installed in 2024.
18. The front door opens directly into the Living Room, the staircase is very steep with shallow treads, the covering to the rear yard is very dilapidated and scheduled for replacement. The garage is unusable as it is also very dilapidated and is scheduled for demolition to be replaced with a parking space.
19. The kitchen units are sparse and dated so provide little storage. The bathroom is very narrow, and the bathroom fittings are also dated.
20. Having completed the inspection the parties were invited to confirm that they did not wish to attend a hearing. Both were adamant that this was the case. Accordingly, the hearing set for 11.30 on that same day was cancelled.

Evidence and Representations

21. The original tenancy began on 9th October 1988.
22. The Rent Officer assessed an open market rent for the property of £925 per month and then applied deductions for Tenant's decoration liability, unmodernised kitchen, Tenant's provision of white goods, carpets and curtains and for scarcity.
23. Mrs Brett-Smith stated that she has lived at the property for some 36 years and she considers the property to be old and dated. An EPC had been completed in February 2024 which had rated the property as an 'F'. As a result the Tenant had obtained a grant for provision of some internal insulation, solar roof panels and a heat source pump heating system. She has found this to be very noisy and does not use it at the present time.
24. The Tenant had previously heated the property using two wood burning stoves which had been condemned early in 2024 for several reasons, not least that the chimney flues are not lined.
25. The Tribunal noted that the EPC rating for the property is now 'C'.
26. The Tenant also referred to her personal health and financial circumstances and stated that she agreed that an open market rent for the property of £925 per month was probably correct if the property was in good order or 'posh'.

27. The Landlord refers to Mrs Brett-Smith as a very good tenant and states that she had previously been content to heat the property using the two woodburning stoves which are now defunct.
28. The Landlord confirmed that the garage is to be demolished and the roof to the yard is to be replaced.

Determination and Valuation

29. 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. Kitchen and bathroom fittings would be relatively modern, a heating system would be provided, and the Landlord would also be responsible for internal decoration.
30. Personal circumstances of either party are specifically excluded by the appropriate law.
31. 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 Trowbridge. Having done so it concluded that such a likely market rent would be £975 per calendar month. This includes an adjustment to reflect the fact that the garage is effectively unusable in its present condition.
32. 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 £975 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.
33. Further adjustments are required for the dated kitchen and bathroom fittings and to reflect the fact that the heating system is provided by grant to the Tenant, making it a Tenant’s improvement, and no rental benefit should accrue to the Landlord.
34. The Tribunal therefore considered that this required a total deduction of £275 per month made up as follows:

Lack of heating/hot water system	£90
Tenant’s provision of white goods	£25
Tenant’s liability for internal decoration	£40
Tenant’s provision of carpets and curtains	£40
Dated kitchen and bathroom	£80
TOTAL per month	£275

35. 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 Trowbridge.

Decision

36. 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 £700 per calendar month.
37. The Section 70 Fair Rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 does not apply as this is the first determination of a statutory Fair Rent for the property.

Accordingly, the sum of £700 per month will be registered as the Fair Rent with effect from the 21st January 2025, 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.