



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

**Case Reference** : **HAV/29UQ/F77/2025/0600**

**Property** : **Flat 2  
12 Rusthall Road  
Tunbridge Wells  
Kent  
TN4 8RA**

**Applicant Landlord** : **Ms A Day**

**Representative** : **None**

**Respondent Tenant** : **Mr P Winter**

**Representative** : **None**

**Type of Application** : **Section 70 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  
Judge C Rai**

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

**Date of Decision** : **10<sup>th</sup> February 2025**

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**DECISION**

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## **Summary of Decision**

On 10<sup>th</sup> February 2025 the Tribunal determined a Fair Rent of £192.69 per week with effect from 10<sup>th</sup> February 2025.

## **Background**

1. On 5<sup>th</sup> October 2024 the Landlord applied to the Rent Officer for registration of a Fair Rent for the property.
2. The rent was previously registered on 21<sup>st</sup> October 2021 at a figure of £164.50 per week following a determination by a Rent Officer. This rent was effective from 21<sup>st</sup> October 2021.
3. A new rent was registered by the Rent Officer on 18th November 2024 at a figure of £213.50 per week. This new rent was effective from 18th November 2024. The rent determined was capped as being the maximum permitted at that date under the provisions of the Rent Acts (Maximum Fair Rent) Order 1999.
4. On 10<sup>th</sup> December 2024 the Tenant 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 8<sup>th</sup> January 2025 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 an inspection or 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. Both the Landlord and Tenant made submissions to the Tribunal. The Landlord stated that she had not sent a copy of her Statement to the Tenant.
9. These reasons address 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 pre-1918 converted maisonette forming part of a detached building. The accommodation includes a Hall, Living Room, Kitchen/Diner, Study, WC and Utility/Storeroom all at ground level with 2 Bedrooms and a Bathroom at first floor level.

15. The property forms part of a larger original house that has been divided with part used commercially. Outside there are gardens and parking.
16. Heating is from a gas fire and some electric night store heaters. The property has no central heating system or double glazing and there is no Energy Performance Certificate available.
17. The property is on the edge of the village of Rusthall and faces onto Rusthall Common.
18. The property is situated adjacent to Sunnyside Community Hall.

### **Evidence and Representations**

19. The original tenancy began in 1971.
20. In her representations to the Tribunal the Landlord provides a sketch plan of the accommodation and photographs of the outside of the building including the garden, and internal photographs showing ceiling repair and a new fitted gas fire.
21. The Landlord states that carpets, curtains and white goods are all provided by the Tenant and she lists various repairs carried out between August 2022 and August 2024 which include the provision of insulation above the kitchen and study.
22. The Landlord also provides examples of comparable properties available to rent in the area with asking rents of £1,350 to £1,850 per month.
23. The Tenant provided the Tribunal with a copy email dated 29<sup>th</sup> November 2004 from the Environmental Protection Team at Tunbridge Wells Borough Council advising that some sound insulation was recommended within the property.
24. The Tenant also provided photographs showing the fitted kitchen which he had installed, including appliances, together with photographs of a French door, fitted Shower and screen, fire surround and hearth, and some secondary double glazing all of which he had fitted.
25. The Tenant also states that the gardens include a shared access to the adjacent Sunnyside Hall which limits his privacy, that users of the Hall often encroach onto his parking area and that use of the Hall can lead to noise nuisance.
26. Although rents for residential property are usually expressed as a monthly figure the Rent Officer assessed an open market rent for the property of £323 per week, equating to £1,400 per month, and then made adjustments to arrive at a statutory Fair 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 with helpful photographs 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 Tunbridge Wells. Having done so it concluded that such a likely market rent would be £1,200 per calendar month. This includes an adjustment for the nuisance caused by the adjacent Hall and being located within a mixed-use building.
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 £1,200 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenants which would not be the case for an open market assured shorthold tenancy.
31. Further adjustments were necessary to reflect the Tenants liability for internal decoration, the improvements made by the Tenant and general condition.
32. The Tribunal therefore considered that this required a total deduction of £365 per month made up as follows:
- |   |             |
|---|-------------|
| Tenant's provision of carpets                     | £50         |
| Tenant's provision of curtains                    | £15         |
| Tenant's provision of white goods                 | £45         |
| Tenant's liability for internal decoration        | £55         |
| Lack of central heating                           | £50         |
| Poor thermal insulation/ lack of double glazing   | £50         |
| Tenants provision of kitchen                      | £50         |
| Other Tenant's improvements including French door | <u>£50</u>  |
| <b>TOTAL per month</b>                            | <b>£365</b> |
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 Tunbridge Wells.

**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 £835 per month which equates to £192.69 per week.
35. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £215 per week permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly we determine that the lower sum of £192.69 per week is registered as the Fair Rent with effect from 10<sup>th</sup> February 2025.

**Accordingly, the sum of £192.69 per week will be registered as the Fair Rent with effect from the 10<sup>th</sup> February 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](mailto: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.