



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

Case Reference	:	CAM/22 UF/F77/2025/0004
Property	:	13 Rothmans Avenue Chelmsford Essex CM2 9UF
Applicant	:	Marcus Leader (Tenant)
Representative	:	None
Respondent	:	Clarion Housing Association Ltd (Landlord)
Representative	:	None
Type of Application	:	S.70 Rent Act 1977 – Determination of a new fair rent
Tribunal Members	:	Mr N. Martindale FRICS
Date and venue of Meeting	:	25 March 2025 First Tier Tribunal (Eastern) County Court Cambridge CB1 1BA
Date of Decision	:	25 March 2025

REASONS FOR DECISION

Background

- 1 By a RR1 application of 21 November 2024, the landlord applied to the Rent Officer for registration of a fair rent of £8128.82 per annum. The rent stated by the landlord, payable at the time of the application was £7604.16 per annum. The registered fair rent payable from 7 June 2022 was £10234 including £77.76 pa in service charge. It is understood that this was not the rent being charged by the landlord though; rather the lower sum.

- 2 The Rent Officer registered a fair rent but, on application from the tenant the matter was referred to the Tribunal for a re-determination.

Directions

- 3 Directions dated 31 January 2025 were issued by Laura Lawless Legal Officer, for case progression. A hearing was not requested. A determination was set down for 25 March 2025 on the papers.

Representations

- 4 The tenant's written representations included a brief letter of appeal. A standard Reply Form was received by the Tribunal from the tenant with basic information, in particular room dimensions and a short list of repairs and improvements that he had undertaken without obligation, over the years. These included, a new kitchen and bathroom, all new internal and the front external door, a garden patio and fencing. The tenant felt the registered rent should be much lower. The increase determined by the Rent Officer so far, from the rent being billed (not the existing registered fair rent), had been very considerable.
- 5 The Tribunal did not receive representations from the landlord.
- 6 The Tribunal is grateful for the information received from the parties.

Inspection

- 7 The Tribunal did not inspect the Property. The Tribunal was however able to externally view the Property from Google Streetview (@ April 2024). The house appears to date from the 1950's and forms part of an established residential estate with some on street parking and a back yard/ garden and outside store.
- 8 The house has brick faced external walls and a double pitched roof to single concrete tiles and is one a pair of semi-detached houses. Externally, to the front elevation, the Property appears in fair to good condition. Windows appear to be in plastic with double glazed units. There is no central space heating. The accommodation is ground floor: two reception rooms and kitchen and first floor; two bedrooms and bathroom/WC.

Law

- 9 When determining a fair rent the Committee, 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.

- 10 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 emphasized
- (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).
- 11 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an un-modernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 12 On the evidence of the comparable lettings and our own general knowledge of market rent levels in and around Chelmsford, the Tribunal accepts that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £18,000 per annum. This then, is the appropriate starting point from which to determine the rent of the property as it falls to be valued.
- 13 A normal open market letting would include carpets, curtains and "white goods", but the Tribunal concludes that these are by now (if they had ever been provided by the landlord since the early 1970's when the tenancy began) no longer provided here by the landlord, but by the tenant. The Tribunal assumes that the Property has a basic functional kitchen and bathroom, not the ones installed by the tenant. The Tribunal also noted the tenant's replacement of all internal doors and the front external door, the new fencing and garden patio. A deduction for these minor shortcomings at the Property amounts to £4,500 pa, leaving the adjusted market rent at £13,500 per annum.
- 14 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply in this locality. The Tribunal found that there was no scarcity in the locality of Chelmsford for this type and size of

property and therefore makes no further deduction from the adjusted market rent to reflect this.

- 15 The fair rent to be registered on this basis alone would be £13,500 pa, but, the new rent can be limited by the statutory Maximum Fair Rent Cap calculation. This limits any increase to the change in RPI between the date of the last registration of a fair rent and the current, plus 5%.
- 16 The calculations are shown in the MFR form attached. This caps the new rent at £12,483.60 per annum. As this is lower than the adjusted uncapped fair rent, the new fair rent remains reduced and capped at £12,483.60 per annum instead. The Rent Act makes no allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent.
- 17 The landlord is entitled but, not compelled, to charge the new rent at the registered figure from the effective date. However the landlord may not charge more than this fair rent. The landlord may continue to choose or be otherwise limited to, charge a smaller sum in rent.

Chairman N Martindale FRICS

Dated 25 March 2025

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e., give the date, the property, and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).