



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

Case Reference : **CHI/00ML/F77/2021/0020**

Property : **55 Elm Grove
Brighton
BN2 3ET**

Landlord : **Lyndale Development Company**

Representative : **Allsops**

Tenant : **Mrs Hurley**

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 BS. Est Man FRICS
Mr M J F Donaldson FRICS MCI Arb MAE
Mr N Robinson FRICS**

**Date and Venue of
Inspection** : **7th April 2021**

Date of Decision : **7th April 2021**

REASONS FOR DECISION

Summary of Decision

On 7th April 2021 the Tribunal determined a fair rent of £210 per week with effect from 7th April 2021.

Background

1. On 3rd December 2020 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £12,168 per annum for the above property. This equates to £1,014 per month or £234 per week.
2. The rent was previously registered on the 21st January 2019 at £195 per week with effect from 18th February 2019. This equates to £845 per month.
3. The rent was registered by the Rent Officer on 13th January 2021 at a figure of £200 per week which equates to £866.67 per month. This rent would take effect from 18th February 2021.
4. On 28th January 2021 the Landlord's Agent objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
6. The Tribunal office 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 a hearing.
7. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.
8. The parties were invited to include photographs and video within their representations if they so wished. Representations were made which were copied to both parties.

Submissions

9. The property is described within the papers as a terraced house with accommodation including a Basement, two Rooms, a Kitchen, two Bedrooms and a Shower room with WC. Outside there is a small yard. Some windows are double glazed, the only heating is from three night-storage heaters.
10. The house is on the corner of Elm Grove and De Montfort Road within a residential area of similar properties just over one mile from Brighton

seafront. There is a Public House on the opposite corner and local shops within reasonable walking distance.

11. The Tenant has occupied the property since 1970. In her submissions the Tenant states that the carpets, curtains and white goods are provided by her. It is accepted by the Landlord's Agent that works are needed to remedy some dampness at ground level and the Tenant maintains that the basement is unusable.
12. In his assessment of the property the Rent Officer suggests an open market rent of £275 per week which equates to £1,192 per month which is then adjusted to reflect the Tenant's liability for internal decoration and repair, and the Tenant's provision of carpets, curtains and white goods. A further reduction is made to reflect a dated Kitchen.
13. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values in determining the rent.

The Law

14. 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.
15. 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).
16. 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.

Valuation

17. 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. Having read and considered the papers it decided that it could do so.
18. 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 condition that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in Brighton. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
19. However, from the submissions the Tribunal concluded that 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.
20. The Tribunal decided that the rent should be adjusted by £120 per month to reflect the lack of central heating, £30 per month to reflect the Tenant's provision of carpets and curtains and a further £20 for white goods. Further deductions of £30 to reflect the Tenant's liability for internal repairs and decorations, £50 to reflect the dated Kitchen and £40 per month to reflect internal dampness and the unusable basement.
21. The Tribunal therefore considered that this required a total deduction of £290 per month so that the Fair Rent assessed is £910 per month equating to £210 per week.
22. The Tribunal did not consider that there was any substantial scarcity element in the Brighton and Hove area.

Decision

23. Having made the adjustments indicated above the fair rent initially determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £210 per week.
24. The Section 70 Fair Rent determined by the Committee is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice.

Accordingly the sum of £210 per week will be registered as the fair rent with effect from the 7th April 2021 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.