



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

Case Reference : **CHI/18UC/F77/2021/0014**

Property : **33 Monterey Gardens
Exeter
Devon
EX4 5EN**

Landlord : **Dorrington Queensway Ltd**

Representative : **Allsop Letting & Management**

Tenant : **Mr S M Dunning**

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 BSc Est. Man. FRICS
Mr M J F Donaldson FRICS MCI Arb MAE
Mr S Hodges BSc Est. Man. FRICS**

**Date and Venue of
Inspection** : **None. Decided on the papers.**

Date of Decision : **11th March 2021**

REASONS FOR DECISION

Summary of Decision

On 11th March 2021 the Tribunal determined a fair rent of £775 per month with effect from 11th March 2021.

Background

1. On 6th July 2020 the Landlord's Agent applied to the Rent Officer for registration of a fair rent for the property of £10,944 per annum to include £896.60 per annum for services. This would equate to £912 per month.
2. The rent was previously registered on the 7th September 2018 at £740 per month including £101.52 for services following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 27th November 2020 at a figure of £760 per calendar month with effect from the same date. This includes the sum of £74.63 for services.
4. By a letter dated 23rd December 2020 the 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. The parties submitted written representations, copies of which were sent to each other.

Submissions

7. The property is described as a terraced house with a flat roof and is within a development of similar properties about 1½ miles from the centre of Exeter.
8. The accommodation is stated to comprise a Living Room, Kitchen, Store, three Bedrooms a Bathroom and WC outside. There is a garden and the house is within a managed estate which includes some shared gardens and a caretaking service.
9. The rent assessed by the Rent Officer was based on an open market rent of £950 per calendar month which had been reduced by a total of £190 per month to take into account factors including condition and the Tenant's provision of carpets, curtains and white goods.

10. The arithmetic in the submission from the Landlord's Agent was incorrect as it suggested an annual open market rent of £20,973 per annum less suggested deductions of £1,500 per annum to reflect the Tenant's provision of carpets and white goods and a further £3,500 per annum to reflect the dated Kitchen and Bathroom fittings leaving a net rent of £9,643 equating to £803.35 per month.

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.

Valuation

14. 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.
15. 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, that is with fitted carpets, curtains and white goods. It did

this by having regard to the evidence supplied to it by the Landlord's Agent and the Tribunal's own general knowledge of market rent levels in Exeter and its environs.

16. Having done so it concluded that such a likely market rent would be £1,150 per calendar month, equating to £13,800 per annum including services.
17. 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 £1,150 per calendar month to reflect the condition, the age of fittings and 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.
18. The Tribunal took account of the Rent Officer's deductions and decided that an adjustment to the rent of £175 per month should be made to reflect the provision of carpets curtains and white goods together with a further £200 per month to reflect the dated Kitchen and Bathroom fittings.
19. Accordingly the hypothetical rent of £1,150 per month would be reduced by a total of £375 so that the net rent is £775 per month.
20. The Tribunal did not consider that there was any substantial scarcity element in Exeter and made no further adjustment for this.

Decision

21. 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 £775 per calendar month.
22. The registered rent is not to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s71(4)).
23. 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, £804.5 per month, details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.
24. **Accordingly the sum of £775 per month will be registered as the fair rent with effect from the 11th March 2021 being the date of the Tribunal's decision.**

Appeals

25. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to

appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.

26. 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.
27. 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 the time limit, or not to allow the application for permission to appeal to proceed.
28. 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.

If the First-tier Tribunal refuses permission to appeal in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may take a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for the permission.