



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

Case Reference : **CHI/21UC/F77/2021/0052**

Property : **Flat 1
Selwyn Park Court
Eastbourne
East Sussex
BN21 2LG**

Landlord : **Millmead Properties Ltd**

Representative : **Parsons Son & Basley**

Respondent/Tenant : **Mr R L Stephens**

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 FRICS
Judge Tildesley OBE
Mr S J Hodges FRICS**

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

Date of Decision : **22nd December 2021**

DECISION

Summary of Decision

On 21st December 2021 the Tribunal determined a fair rent of £500 per month with effect from 22nd December 2021.

Background

1. On 20th August 2021 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £350 per month for the above property.
2. The rent was previously registered on the 21st September 1998 at £3,276 per annum following a determination by the Rent Officer. This equates to £273 per calendar month.
3. The rent was registered by the Rent Officer on the 30th September 2021 at a figure of £500 per month with effect from the same date.
4. By a letter dated 14th October 2021 the Tenant 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. Directions were issued on 26th October 2021 informing the parties that the Tribunal intended to determine the rent on the basis of written representations subject to the parties requesting an oral hearing, and that the Tribunal might seek to view the property on the internet. No request was made by the parties for a hearing.
7. The parties were invited to include photographs and video within their representations if they so wished. Neither party made any representation so the Tribunal could only rely on the original information that had been provided by the parties to the Valuation Office Agency, including the letter of appeal from the Tenant.

The Property

8. Within the papers the property is described as a ground floor flat and is within an original house said to date from 1868, converted/extended some years ago to provide about 20 flats in total.
9. The property is situated within a residential area of Eastbourne about one mile from the seafront/beach. A variety of local shops are within easy reach and there is a good range of all main amenities within Eastbourne.

10. The internal accommodation includes a Living Room, Bedroom, Kitchen and Bathroom with WC and, as confirmed by Mr Stephens, has central heating and hot water provided within the rent.

Evidence and Representations

11. Within his letter of appeal Mr Stephens refers to rising dampness at ground level that had caused the floor within the Bedroom to collapse. This has been repaired. He also refers to damaged plasterwork.
12. From the Rent Officer's calculation sheet the Tribunal understands that no white goods, carpets or curtains are provided by the Landlord, that the Kitchen is unmodernised and that the Tenant has responsibility for internal decoration and minor repairs.
13. The Tribunal had regard to the observations from Mr Stephens 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 the area of Eastbourne, Brighton and surrounding areas of East Sussex. Having done so it concluded that such a likely market rent would be £700 per calendar month.
19. 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 £700 per month particularly to reflect the condition, the Tenant's responsibility for internal repair and decoration and 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.
20. The Tribunal therefore considered that this required a total deduction of £200 per month made up as follows:

Provision of carpets	£20
Provision of curtains	£10
Provision of white goods	£30
Unmodernised kitchen	£75
Rising/penetrating damp	£25
Tenants internal repair and decoration	£40
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TOTAL	£200

21. The Tribunal did not consider that there was any substantial scarcity element in the area Eastbourne, Brighton and surrounding areas of East Sussex.

Decision

22. 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 £500 per month.
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 details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.

24. The Tribunal is aware that this Fair Rent is above the £350 per month requested by the Landlord. The Landlord is not required to charge this higher rent.

Accordingly the sum of £500 per month will be registered as the fair rent with effect from the 22nd December 2021, 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.