



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

**Case Reference** : **CHI/40UB/F77/2021/0048**

**Property** : **1 Wraxhill Road  
Street  
Somerset  
BA16 0HE**

**Tenant** : **J & S Greene**

**Representative** : **None**

**Landlord** : **D Holland**

**Representative** : **Holland & Odam**

**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  
Mr S J Hodges FRICS  
Mr J S Reichel BSc MRICS**

**Date and Venue of Inspection** : **None. Paper determination**

**Date of Decision** : **22<sup>nd</sup> November 2021**

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**REASONS FOR DECISION**

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## **Summary of Decision**

On 22<sup>nd</sup> November 2021 the Tribunal determined a fair rent of £800 per calendar month with effect from 22<sup>nd</sup> November 2021.

## **Background**

1. On 24<sup>th</sup> June 2021 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £850 per calendar month for the above property to replace the existing rent of £500 per calendar month.
2. The rent had not previously been registered. The original tenancy commenced 28<sup>th</sup> November 1988 at an initial rent of £450 per calendar month. The property was partly furnished at the commencement of the tenancy.
3. Following a consultation the rent was registered by the Rent Officer on the 14<sup>th</sup> September 2021 at a figure of £819 per calendar month with effect from the same date.
4. By a letter dated 6<sup>th</sup> 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. 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.

## **The Property**

9. Within the papers the property is described as a semi-detached house with accommodation including a Porch, Hall, Sitting Room, Dining Room, Kitchen/Breakfast Room, Pantry, Utility and WC all at ground level. At first floor level four Bedrooms, Bathroom, WC, Boxroom. Externally there are Gardens and Garage. The property appears to have been built around 1880 of stone and brick construction beneath a tiled main roof.

10. A gas-fired Aga provides the hot water, windows are mostly single-glazed and there is only partial central-heating. Many rooms are unheated.
11. The property is situated about 300 yards from the centre of Street within a road of mostly detached houses. Day-to-day amenities are available within the village.

### **Evidence and representations**

12. The survey sheet completed by the Rent Officer describes the house as unmodernised with dated decoration.
13. The Tenant states that there is rising damp, some penetrating damp which affects internal plaster and decorations. The Tenant also states the original carpets are threadbare, there has been a rat infestation in the past and that he has replaced one window.
14. The Landlord states that carpets were provided at the start of the tenancy, the gas boiler was replaced in 2020. He also provided a list of repairs carried out over the years including recent external decoration.
15. The Tenancy Agreement specifically states that the Tenant is “to keep in good and complete repair order and condition (damage only by accidental fire excepted) the interior of the Property and the painting papering and decorations thereof...”.
16. 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.
17. Surprisingly the rent of the property has not been previously registered.

### **The Law**

18. 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.
19. 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).
20. 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**

21. 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.
22. 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 central Somerset. Having done so it agreed with the Rent Officer and concluded that such a likely market rent would be £1,300 per calendar month.
23. 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 £1,300 per calendar month particularly to reflect the age and condition of the property, that the original carpets are threadbare, curtains are provided by the Tenant, the white goods (excepting the Aga) were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
24. The Tribunal therefore considered that this required a total deduction of £500 per month made up as follows:

Threadbare carpets and Tenant's curtains	£100
Provision of white goods	£50
Unmodernised bathroom	£50
Unmodernised kitchen	£100
Partial central heating	£100
Internal decoration liability	£50
General disrepair and damp	£50
<b>TOTAL</b>	<b>£500</b>

25. The Tribunal did not consider that there was any substantial scarcity element in the area of central Somerset.

**Decision**

26. 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 £800 per calendar month.
27. This is the first registration of the rent for the Property so that the rent is not limited by Section 70 of the Rent Acts (Maximum Fair Rent) Order 1999.

**Accordingly the sum of £800 per calendar month will be registered as the fair rent with effect from the 22<sup>nd</sup> November 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](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.