



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

Case Reference : **CHI/00HG/F77/2021/0046**

Property : **26 Evelyn Street, Plymouth, Devon, PL5
1QB**

Landlord : **Clarion Housing Association Ltd**

Representative : **-**

Tenant : **Ms Patricia Rea**

Representative : **-**

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 W H Gater FRICS MCI Arb (Chair)
Miss C D Barton BSc MRICS
Mr P Smith BSc FRICS IRRV**

Date of Decision : **17 November 2021**

REASONS FOR DECISION

Summary of Decision

On 17 November 2021 the Tribunal determined a fair rent of £4800 per year with effect from 17 November 2021.

Background

1. The Landlord applied to the Rent Officer for registration of a fair rent of £3325.44 per year, including £217.44 per year for services, for the above property.
2. The rent was previously registered on 23 October 2017 at £5120.50 per year following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 16 September 2021 at a figure of £5938.50 per year, effective from the same date. This includes the sum of £ 217.44 per year for services.
4. By a letter dated 29 September 2021 from her daughter Mrs L Beer, 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 also 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. There are no submissions from either party, apart from the original application from the Landlord and the letter of objection from the Tenant.

The Property

9. The property the is a one bedroom flat in a purpose-built post war development at Saint Budeaux Plymouth.
10. The accommodation comprises a Living room, Bedroom, Kitchen, Bathroom/Wc. There is no central heating. The property was let unfurnished.

11. The services include estate caretaking, communal electricity, grounds maintenance, refuse collection, tree work and an administration fee.
12. In the letter of objection, the Tenant, through her daughter, states that the kitchen is so small there is no room for a washing machine and there is only a small worktop.
13. In his assessment of the property the Rent Officer starts with a suggested open market rent of £6900 per year and then made adjustments to the rent to reflect the Tenant's liability for repair/decoration and the lack of white goods and floor coverings.
14. The rent per year is charged over 48 weeks in accordance with the terms of the tenancy agreement.
15. 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

16. 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.
17. 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).
18. 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

19. 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.
20. 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 Tribunal's own general knowledge of market rent levels in Plymouth. Having done so it concluded that such a likely market rent would be £6000 per year.
21. However, from the papers, 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 £6000 per year. The Tribunal decided that the following adjustments in the yearly rent should be made
 - lack of white goods -£150
 - back of carpets and curtains - £150
 - tenants repair and decoration - £600
 - lack of central heating - £300
22. The Tribunal therefore considered that this required a total deduction of £1200 per year leaving a rent of £4800 per annum, including services.
23. The Tribunal did not consider that there was any substantial scarcity element in the Plymouth and South Devon area.

Decision

24. 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 £4800 per year to include £ 217.44 per year for services
25. 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.

Accordingly the sum of £4800 will be registered as the fair rent with effect from the 17 November 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.