



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

Case Reference : **CHI/18UC/F77/2021/0004**

Property : **3 Lebanon Close
Exeter
Devon
EX4 5EW**

Applicant : **Dorrington Queensway Limited**

Representative : **Allsop Letting & Management**

Respondent : **Mr G V Truscott**

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 FRICS
Mr N Robinson FRICS
Mr M Woodrow MRICS**

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

Date of Decision : **19th February 2021**

REASONS FOR DECISION

Summary of Decision

On 19th February 2021 the Tribunal determined a fair rent of £675 per month with effect from 19th February 2021.

Background

1. On 15th July 2020 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £9,360 per annum for the above property. This equates to £780 per month.
2. The rent was previously registered on the 5th September 2018 at £650 per month following a determination by the Rent Officer. This included a fixed sum of £77.94 per month for services.
3. The rent was registered by the Rent Officer on the 30th October 2020 at a figure of £675 per month with effect from the same date. This includes the fixed sum of £200.33 per month in respect of services.
4. By a letter dated 24th November 2020 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 issued directions on 15th January 2021 informing the parties that the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos and were told that the Tribunal might seek to view the property via the internet.
7. A Tribunal met on 19th February 2021 to consider the papers, which included the Rent Officer's assessment and first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted. Having read and considered the papers submitted it decided that it could do so.

The Property

8. The property is a ground floor flat in a purpose built 3-storey block of six flats constructed about forty-five years ago of brick elevations beneath a flat roof. It is located within a residential area less than two miles to the City Centre, close to Exeter University.

9. The accommodation is described as including a Living Room, Kitchen, two Bedrooms, a Bathroom with WC and a Store and as having a central heating system.
10. The Tribunal noted that the property was let unfurnished, without carpets, curtains or white goods. The Tenant is also responsible for internal decorations.

Evidence and representations

11. The submission from the Landlord's Agent included the assertion that rents for Assured Shorthold tenancies had risen by approximately 7.5% during the previous twelve months but provided no evidence of actual rentals in the area.
12. The Tribunal had regard to the observations and comments by the Landlord's Agent and also relied on its own knowledge and experience of local rental values in determining the rent.

The Law

13. 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.
14. 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).
15. 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

16. 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 Exeter. Having done so it concluded that such a likely market rent would be £750 per calendar month.
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 £750 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenant who is also responsible for internal decoration.
18. The Tribunal noted the age of the property and decided that, as the kitchen and bathroom fittings would now be regarded as quite dated for a modern open market letting, some adjustment to the rent should also be made to reflect this.
19. The Tribunal therefore considered that this required a total deduction of £75 per month made up as follows:

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|---|-----------|
| Internal decoration liability | £20 |
| Tenants provision of carpets and curtains | £20 |
| Provision of white goods | £10 |
| Dated kitchen and bathroom | £25 |
| TOTAL | <hr/> £75 |

20. The Tribunal did not consider that there was any substantial scarcity element in the area of Exeter.

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 £675 per calendar month, equivalent to £8,100 per annum.
22. 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 £675 per month will be registered as the fair rent with effect from the 19th February 2021, this being the date of the Tribunal's decision.

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making 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.
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.

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.