



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

Case Reference : **CHI/43UB/F77/2021/0012**

Property : **4a Baker Street
Weybridge
Surrey
KT13 8AU**

Tenant : **Mr A Thompson**

Representative : **None**

Landlord : **Ms S Clery**

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 £850 per month with effect from 11th March 2021.

Background

1. The Landlord and Tenant made a joint application to the Rent Officer for registration of a fair rent for the property of £1,625 per quarter. This would equate to £541.66 per month. The application was signed by the Landlord on 31st August 2020 and signed by the Tenant on 7th September 2020.
2. The Tenant had rented accommodation at 4a Baker Street from 26th November 2011 under a tenancy protected by the Rent Act 1977. The Landlord and Tenant had agreed a redevelopment of the property which would reduce the accommodation within number 4a Baker Street and would allow the Landlord to create a further dwelling within the building. The Tenant would benefit from newly refurbished accommodation with a refitted kitchen and white goods. Effectively this was a 'First Registration' of the rent for the property.
3. The rent was registered by the Rent Officer on the 26th November 2020 at a figure of £2,600 per quarter with effect from the same date. This equates to £866.67 per month, considerably higher than the rent requested in the joint application.
4. By a letter dated 24th December 2020 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. The parties submitted written representations, copies of which were sent to each other.

Submissions

7. The property is described as a flat situated above commercial premises in the centre of Weybridge.
8. The accommodation is stated to comprise a Living Room/Kitchen, Bedroom, Bathroom and has gas-fired central heating. Plans of the property before and after the redevelopment were submitted to the Tribunal.

9. The Tenant makes the point that the sloping ceilings to the revised accommodation limit the size of useable floor or wall space.
10. The rent assessed by the Rent Officer was based on an open market rent of £200 per week with no deductions for factors such as condition, the tenant's provision of carpets, curtains and white goods, or scarcity.
11. The rent assessed by the Rent Officer is higher than the rent requested in the joint application. The Landlord is not obliged to charge the higher figure, this is the highest amount that can be charged.

The Law

12. 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.
13. 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).
14. 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

15. 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.

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, that is with fitted carpets, curtains and white goods. It did this by having regard to the evidence supplied to it by the parties and the Tribunal's own general knowledge of market rent levels in Weybridge and its environs.
17. Having done so it concluded that such a likely market rent for a one-bedroom flat in this location would be £950 per calendar month.
18. 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 £950 per calendar month particularly to reflect the fact that the carpets and curtains are provided by the Tenant which would not be the case for an open market assured shorthold tenancy. The Tribunal decided that a deduction of £25 per month should be made to reflect this.
19. The Tribunal decided that an adjustment of £75 per month should be made to reflect the sloping ceilings in the lounge and bedroom which limits the useable space.
20. Accordingly the hypothetical rent of £950 per month would be reduced by a total of £100 so that the net rent is £850 per month.
21. The Tribunal did not consider that there was any substantial scarcity element in Weybridge and made no further adjustment for this.

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 £850 per calendar month.
23. The registered rent is not to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s71(4)).
24. The Section 70 Fair Rent determined by the Committee is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 as this is effectively a First Registration after redevelopment.
25. **Accordingly the sum of £850 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

26. 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.

27. 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.
28. 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.
29. 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.