



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

Case Reference : **CHI/00ML/F77/2021/0039**

Property : **5 Castle Street
Brighton
BN1 2HD**

Tenant : **Miss M Scott**

Representative : **None**

Landlord : **Mr S Wood**

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

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

Date of Decision : **9th September 2021**

REASONS FOR DECISION

Summary of Decision

On 9th September 2021 the Tribunal determined a fair rent of £231 per week with effect from 9th September 2021.

Background

1. On 7th May 2021 the Landlord applied to the Rent Officer for registration of a fair rent of £229.50 per week for the above property. This would equate to £994.50 per month.
2. The rent was previously registered on the 30th May 2019 at £209.50 per week following a determination by the Rent Officer. This equates to £907.83 per calendar month. This start date of this rent was 7th June 2019.
3. The rent was registered by the Rent Officer on the 21st June 2021 at a figure of £229 per week with effect from the 21st June 2021. This equates to a figure of £992.33 per calendar month.
4. By a letter received 16th July 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. From the papers submitted the property is described as an inner terraced house dated from pre-1914. The accommodation includes two rooms and a kitchen in the basement, two rooms and a bathroom at ground level, two rooms at first floor level.
10. There is a small yard at the rear and on street permit parking. The accommodation has central heating. The front elevation is white painted render.

11. The property is situated in the centre of Brighton where all main services and amenities are available and is within ¼ mile of Brighton beach.

Evidence and representations

12. The tenancy began in 1954. The Tenant provides all carpets, curtains and white goods. The kitchen and bathroom are dated, and general condition is less than would be expected in a modern-day open market letting.
13. The Landlord had replaced the roof in November 2019 and was proposing to install two double glazed windows.
14. The submission from the Landlord also included evidence of the asking rent for comparable properties in the general area which were being marketed through letting agents in that area.
15. The Tenant had told the Tribunal of her difficulties in paying any rent increase. The Tribunal must ignore the personal circumstances of either party.
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.

The Law

17. 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.
18. 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).
19. 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

20. 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.
21. 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 Brighton. Having done so it concluded that such a likely market rent would be £1,600 per calendar month.
22. 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 £1,600 per calendar month particularly to reflect 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.
23. The Tribunal decided that further adjustments should be made to reflect the dated kitchen and bathroom and the overall general condition.
24. The Tribunal therefore considered that this required a total deduction of £430 per month made up as follows:

Provision of carpets and curtains	£100
Provision of white goods	£80
Dated kitchen	£100
Dated bathroom	£50
General poor condition	£100
	—————
TOTAL	£430

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

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 £1,170 per calendar month which would equate to £270 per week.

27. The Section 70 Fair Rent determined by the Committee is above 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 we determine that the lower sum of £231 per week is registered as the fair rent with effect from 9th September 2021.

Accordingly the sum of £231 per week will be registered as the fair rent with effect from the 9th September 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.