



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

Case Reference : **CHI/43UF/F77/2020/0018**

Property : **13 Wither Dale, Horley, Surrey,
RH6 8BW**

Landlord : **London & Quadrant Group**

Tenant : **Mr D Richards & Mrs H Richards**

Type of Application : **Rent Act 1977 (“the Act”) Determination
by a First Tier Tribunal of the fair rent
of a property following an objection to
the rent registered by the Rent Officer.**

Tribunal Members : **Mr. R.A. Wilkey FRICS**

Date of Decision : **Friday 28th August 2020
No hearing or inspection. Paper
determination.**

DECISION AND REASONS

Background

1. The landlord applied to the Rent Officer on 2nd March 2020 for registration of a fair rent of £226.97 per week for the property. The Application states that the landlord provides services in accordance with a supplied schedule. The sum of £3.12 per week is attributed to these services.
2. The previous registration by the Rent Officer on 12th June 2017 was £203.50 per week, effective from the same date. The sum of £9.13 is attributable to services provided by the landlord. The amount of the uncapped rent was stated on the register to be £210 per week.
3. Following an objection to the amount of rent above, the matter was referred to the First-tier Tribunal who registered a rent of £204 per week on 31st July 2017, effective from the same date, including the sum of £9.13 per week attributable to services.
4. On the 1st June 2020, the Rent Officer registered a fair rent of £229 per week, effective from the same date. The sum of £3.12 is attributable to services provided by the landlord. The amount of the uncapped rent is stated on the Register to be £230 per week.
5. 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.
6. Directions for the conduct of the matter were issued by the Tribunal Office on 17th July 2020 under regulations applicable in respect of the Covid-19 pandemic. The Tribunal intended to determine the application on the papers without a hearing or an inspection in accordance with rule 31 of the Tribunal Procedure rules 2013 unless a request for an oral hearing is made within fourteen days
7. Neither party requested a hearing at which oral representations could be made.

The Property

8. The Tribunal has not inspected the property but checked the area using Google Maps and Street View and perused the information provided by the

Rent Officer. It is a terraced house built between 1965 and 1980. The accommodation comprises one room, kitchen and WC on the ground floor and four rooms with bathroom/WC on the first floor. There is no garage.

9. The construction of the house is not stated and, although the directions allowed for the provision of photographs, none have been provided. An examination of the property using Street View suggests that it is of traditional construction with brick elevations and a pitched and tiled roof.
10. There is no central heating. Limited information has been provided as to the condition of the property, adequacy of kitchen and bathroom fittings or whether floor coverings, curtains, carpets and white goods were provided by the tenant. It is regrettable that neither of the parties completed and returned the “Reply Form” attached to the directions.
11. The Tribunal has not been provided with a copy of any Tenancy Agreement but the Application states “...we have been unable to locate the original documentation and to our knowledge this tenancy started prior to 15th January 1989.” The Notes from the Rent Officer state that the tenancy commenced 4th May 1987. As far as repairing and decorating liabilities are concerned, the Application to the Rent Officer states that the apportionment of responsibility for repairs and decorations is “as in the conditions of tenancy”. The Rent Register states that the allocation of liability for repairs is “in accordance with the standard form of agreement (Copy held by the Rent Officer) – Subject to Section 11 Landlord and Tenant Act 1985.” The parties have not provided any further information concerning the apportionment of responsibility for repairs and decorations.

Representations

12. The tenant wrote a letter dated 22nd June 2020 which stated “I think the rent increase is far too much and has never increased this much ??. Nothing has changed regarding my ?? that L & Q have done.” The letter did not include any evidence of rental value.
13. The landlord has not made any written representations.

The law

14. When determining a fair rent, the Committee, in accordance with section 79 of the Rent Act 1977, had regard to all the circumstances including the age, location and state of repair of the property. The Committee also disregarded the effect of (a) any relevant tenant's improvements and (b) 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
15. (a) 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) 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)
16. The Rent Acts (Maximum Fair rent) Order 1999 applies to all applications for registration of a fair rent (other than a first application for registration) made to the Rent Officer on or after 1 February 1999. Its effect is to place a "cap" on the permissible amount of the increase of a fair rent between one registration and the next by reference to the amount of the increase in the retail price index between the date of the two registrations plus 7.5% in the case of a first re-registration and 5% thereafter. The Committee must first determine a fair rent ("the uncapped rent") and then consider whether the Order applies so as to limit the increase in the rent ("the capped rent")
17. There are two principle exceptions. This is not the first registration so the relevant exception is contained in Art.2(7) of the 1999 Order and is as follows:

"This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the

rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.”

The landlord purchased the freehold interest in August 2018 and has subsequently carried out significant works to the main building including replacement of the roof coverings, repairs and redecoration of the external rendering, installation of a modern fire alarm system etc. Attention is drawn to the observations under items 25-29 below.

Valuation

18. First of all, 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 on the terms and in the condition that is considered usual for such an open market letting.
19. In the absence of any evidence of rental value supplied by the parties, the tribunal relied on its own knowledge of general rent levels for this type of property and determined that the starting point should be £295 week.
20. However, this starting rent is on the basis of a letting in good, modernised condition. In addition, adjustment must be made to reflect matters such as any items supplied by the tenant, the internal decorating obligations, whether floor coverings, curtains and white goods were supplied by the tenant etc.
21. The Tribunal has been provided by the parties with limited relevant information on the above matters. In this respect, the observations under item 11 above are pertinent. We have done the best we can and have made assumptions regarding deductions based largely on the information provided by the Rent Officer who would have been in possession of additional information including a copy of the tenancy agreement. Notwithstanding the fact that the Rent Officer’s working sheet states “Landlord responsible for all repairs and decorations” a deduction has been made in the Rent Officer’s calculations in respect of “tenant’s

repair/decoration liability. “In the absence of clarification, we have followed the procedure adopted by the Rent Officer.

22. In order to reflect all the relevant considerations, the Tribunal has made the following deductions from the starting point of £295 per week:

Carpets and curtains provided by tenant	£ 8
White goods provided by tenant	£ 3.50
Tenant’s liability for internal decorations	<u>£ 3.50</u>
TOTAL DEDUCTIONS	£ 15 per week
Adjusted rent	£ 280 per week

23. The Tribunal considers that there is no substantial scarcity element in the general area of Horley. Neither party made any representations in respect of scarcity. Accordingly, no further deduction was made for scarcity.
24. We therefore determined that the uncapped Fair Rent is £280 per week exclusive of council tax and water rates but inclusive of £3.12 relating to services provided by the landlord.
25. The amount included for services is £3.12 per week and the tenant made no observations. The Rent Officer agreed with the amount stated in the application and it was supported by a “service charge statement”. In the circumstances, the Tribunal adopts the amount for services since this is not a matter in dispute. It should be noted that the amount for services has no effect on the fair rent assessed.
26. The Tribunal finds that by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that could have been registered in the present case is the sum of £230.50 per week
27. As the adjusted rent is above the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £230.50 per week is registered as the fair rent with effect from Friday, 28 August 2020. This is the maximum rent permitted but the landlord may charge a lower rent.
28. For information only, details of the rent calculated in accordance with the Maximum Fair Rent Order details are shown on the rear of the Decision

Accordingly, the sum of £230.50 per week will be registered as the fair rent with effect from Friday, 28 August 2020, being the date of the Tribunal's decision.

Appeals

29. 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.
30. 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.
31. 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.
32. 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.