



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

Case Reference : **CHI/24UE/F77/2018/0052**

Property : **1 The Potteries, Wickham road,
Fareham, Hants PO16 7ET**

Type of Application : **Decision in relation to Rent Act
1977**

Date of Decision : **22 November 2018**

Reasons for the decision

Background

1. On 23 May 2018 the Rent Officer received an application from the landlord to register the rent of the property at £1,500 per month
2. On 13 July 2018 the Rent Officer registered the rent at £10,376 per annum exclusive of rates with effect from the same date. The uncapped rent was £11,700 per annum and the previous rent registered on 5 May 2005 was the capped rent of £6,862.50.
3. On 8 August 2018 Rent Officer received an objection from the tenant and the matter was referred to the First Tier Tribunal, Property Chamber.

Inspection

4. We inspected the property in the company of Mr Ryder. The landlord's agent was aware of the inspection but did not attend.

5. The property comprises a large Grade II Listed detached house situated on the corner of the busy A32 trunk road and the access road to an office estate. The property has pedestrian access from the estate road and both pedestrian and vehicular access from the A32.
6. The property is of some age and has been extended over the years. The accommodation comprises on the ground floor a roomy entrance hall, lounge, library, study, kitchen with walk in larder, laundry room and WC. On the first floor are 5 bedrooms and a bathroom with full suite.
7. Outside there are areas of garden and a good-sized parking area accessed off the A32.
8. The property is in need of substantial updating. There is no central heating and hot water is supplied by gas fired water heaters in the bathroom and laundry room. There are signs of damp penetration around the chimney breast in two of the bedrooms and there are signs of some poorly executed repairs to one of the external walls. Although no access was available it is understood that the cellar beneath part of the property has standing water.

Representations/ Hearing

9. In representations dated 13 September 2018 the tenant said that;
 - a. He had no records of comparable lettings and that none of the various landlords had carried out any outside or inside decorations or repairs/renovations.
 - b. He does not have a tenancy agreement
 - c. All improvements over the last 51 years have been paid by him
 - d. He doesn't know whether demand exceeds supply but does not consider this unrefurbished property would command the Maximum Rent set by the Rent Officer
 - e. The initial rent was high but acceptable to the closeness of his workplace. He considers a reduced annual rental of say £5,000 would be appropriate subject to urgent repairs being carried out.
10. In the valuation report by Ray and Co dated 21 May 2018 the following comparable evidence of open market lettings was provided;
 - a. 18 Hampton Grove Fareham; Let 2018 for £1,375 per month
 - b. 2 Waterside Gardens Fareham; Let 2018 for £1,695 per month
 - c. 27 Furneaux Gardens Fareham; Let 2018 at £1,250 per month
 - d. Furzehall Avenue; Let 2018 at £1,650 per month
 - e. 15 Coppice Way, Fareham; Let 2014 at £1,050 per month
 - f. 157 Fareham park Road Fareham; Let November 2017 at £1,995 per month.
11. The report concludes that the best evidence are the lettings of Waterside Gardens, Furzehall Avenue and Fareham Park Road and that after allowing for the old-style accommodation without double glazing and central heating his opinion of the rental value of the subject property is £1,500 per month.

The law

12. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard 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. Case law informs the Tribunal;
 - 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).

Valuation

14. Thus, 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 on the terms and in the condition that is considered usual for such an open market letting. Mr Ray provided evidence of the rents achieved on a number of 3, 4 and 5-bedroom properties. Those preferred by Mr Ray were let at between £1,650 and £1,995 per month the latter having 5 bedrooms, 3 receptions, 2 en-suites and was described as "top of the range". The other two had four bedrooms and double or triple garages. All had central heating and double glazing.
15. This is a most unusual property to find on the rental market as evidenced by the lack of close comparables provided by Mr Ray. It requires considerable updating which with a Listed building will require significant expenditure. It is larger than would be required by most family requirements and it nestles between a busy main road and an office estate with a car park abutting one boundary. Even if brought up to modern standards the disadvantages of its immediate location would restrict its rental value.
16. Noting that the Rent officer had taken a starting point of £1,550 per month (£18,600 per annum) the Tribunal when considering the issues referred to above determined that the starting point should be £1,500 per month.

17. However, the rent referred to in the above paragraph is on the basis of a modern open market letting of a fully centrally heated property where the tenant has no liability to carry out repairs or decorations and the landlord supplies white goods, carpets and curtains. In this case the Tenant supplies his own white goods, carpets and curtains, there is no central heating and the property is largely unmodernised.
18. In the absence of a tenancy agreement the Rent Officer refers to the repairing obligations as being agreed between the parties. The only information available to the Tribunal is from the application form which refers to the landlord having responsibility for the structure and exterior and the tenant for the interior and decorations.
19. To take on such an obligation in a large listed building has the potential for significant expenditure which is likely to deter many prospective tenants and for which an allowance must be made.
20. In the Tribunal's experience a prospective tenant would not go through a detailed exercise of deductions but would make an overall assessment of the level of allowance that would entice them to overlook the difference in amenities and obligations as offered by the subject property when compared to the lettings referred to in paragraph 10 above. Doing the best it can the Tribunal assesses that allowance at 50% giving an adjusted rent of £750 per month or £9,000 per annum
21. We then considered the question of scarcity as referred to in paragraph 13a above and determined that there was none in this area of Hampshire.
22. We therefore determined that the uncapped Fair Rent is £9,000 per annum exclusive of council tax and water rates with effect from 22 November 2018
23. As this amount is below the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the decision **Notice we determine that the sum of £9,000 per annum is registered as the Fair Rent from 22 November 2018**

D Banfield FRICS (Chairman)
Judge M Tildesley OBE
22 November 2018

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. 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.

2. 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.

3. 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.