



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

Case Reference : **CHI/00HY/F77/2018/0061**

Property : **Betula, Peckons Hill, Shaftesbury,
Dorset SP7 0PN**

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

Date of Decision : **10 December 2018**

Reasons for the decision

Background

1. On 1 August 2018 the Rent Officer received an application from the landlord to register the rent of the property at £3,000 per quarter inclusive of services. The amount included in the rent for services described as “*water from the Landlord’s private supply and servicing of the central heating*” was £600 per annum.
2. On 7 September 2018 the Rent Officer registered the rent at £2,160 per quarter inclusive of £91.53 for services
3. On 8 October 2018 Rent Officer received an objection from the landlord and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal made Directions on 17 October 2018 requiring the landlord to send the tenant and the Tribunal a statement in support of their application following which the tenant was required to respond. The parties were advised that the application would be dealt with on the papers following an inspection unless a party called for an oral hearing.

5. The landlord asked for an oral hearing which was arranged for Monday 10 December 2018 at Salisbury Court.
6. The Tribunal visited the property as advised but was unable to gain entry.

Inspection

7. In the absence of the tenant the Tribunal inspected the exterior of the property which it found to be a modest detached chalet bungalow on the edge of farmland and with a scattering of other property nearby.
8. We noted the ample parking area and that the property had UPVC double glazed windows. From the details provided by the Rent Officer we understood that the property had on the ground floor; 2 rooms, kitchen/diner, bath/wc, hall and conservatory whilst on the first floor are 2 rooms. Externally there is a garage and stores.
9. We understand that the tenant has provided the additional bedroom, garage and conservatory.
10. We further understand that there is full central heating.

Representations/ Hearing

11. Neither party submitted written representations. In a letter to the Rent Officer received on 7 August 2018 the tenant referred to the extensive improvements he had made and attached a substantial list dated 6 February 2010. He confirmed that no improvements had been carried out by the landlord since the previous registration.
12. A hearing was held at Salisbury Court attend by Mr Howard Smith MRICS on behalf of the landlord. The tenant did not attend. Mr Smith said that the sole reason for appealing was that the Rent Officer had not, unlike previous registrations, allowed for any additional charges to be made in respect of the supply of water from a private supply and the cost of emptying a septic tank.
13. Mr Smith referred to guidance on such additional charges, given in the Rent Officer Handbook which he says has not been followed on this occasion.
14. The Tribunal explained that whilst this may be the sole reason for the objection the Tribunal was obliged to determine the rent afresh. As such they enquired whether Mr Smith wished to rely on any comparables. Mr Smith said that he had no evidence to put forward but confirmed that the list of tenant's improvements dated 6 February 2010 was not challenged.

The law

15. 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.
16. 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

17. 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.
18. The Tribunal accepted the unchallenged list of improvements carried out by the Tenant and therefore discounted any value which may be attached to them.
19. Neither party has submitted details of rents achieved for any comparable properties and the Tribunal therefore had to rely on its own knowledge and experience.
20. Noting that the Rent Officer had taken a starting point of £2,400 per quarter the Tribunal determined to adopt the same figure.
21. However, the rent referred to in the above paragraph is on the basis of a modern open market letting 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 for which the Tribunal must make an allowance.

22. 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 as offered by the subject property when compared to the letting of a property as described in paragraph 21 above. Doing the best it can the Tribunal assesses that allowance at 10% giving an adjusted rent of £2,160 per quarter.
23. We then considered the question of services and particularly whether the registered rent should include any charges in respect of sewage or water supply.
24. In box 8 of his application form Mr Smith refers to the services as "*water from landlords private supply, central heating serviced by landlord*" and at box 9 he states that £600 per annum "*of the proposed rentis due to these services*"
25. It appears therefore that at the time of the application Mr Smith was seeking a rent inclusive of the services he had identified.
26. The Rent Officer refers to "*services as per schedule in possession of the rent officer*" but does not otherwise identify what is included in the assessment of £91.53 per quarter.
27. Of the two "services" identified by the landlord the cost of servicing the central heating system is a repairing obligation of the landlord and is not as such a service to the tenant.
28. In the majority of lettings the supply of water will be by a water company the charges from which will fall on the tenant by way of water rates and as such is considered to be "tax on occupation". Whilst such charges are increasingly dependent upon actual usage as measured by a water meter that does not in the Tribunal's opinion change the nature of the charge.
29. Whether the tenant is liable to pay such charges in addition to the registered rent should not be dependent upon the identity of the supplier, be that a water company or the landlord. For this reason, the supply of water and disposal of sewage is not to be considered a "service" and **the rent registered is exclusive of any such charges which may be made by the landlord.**
30. We then considered the question of scarcity as referred to in paragraph 15a above and determined that there was none in this area of North Dorset.
31. We therefore determined that the uncapped Fair Rent is £2,160 per quarter exclusive of council tax and water charge with effect from 10 December 2018

32. 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 £2,160 per quarter exclusive of any charges for the supply of water or disposal of sewage which may be made by the landlord is registered as the Fair Rent from 10 December 2018**

D Banfield FRICS (Chairman)
W Gater FRICS ACI Arb
10 December 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.