



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

**Case Reference** : **CHI/45UG/F77/2018/0064**

**Property** : **Ladymead Cottage, Albourne Road,  
Hurstpierpoint, Hassocks, West Sussex  
BN6 9ES**

**Landlord** : **Tate Bros Ltd.**

**Represented by** : **Ellmans**

**Tenant** : **Mr. D. J. Evans**

**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 (Chairman)  
Mr. N. I. Robinson FRICS  
(Valuer Member)**

**Date of Inspection** : **Monday 10<sup>th</sup> December 2018  
Hearing at Mercure Brighton Hotel.**

**Date of Decision** : **Monday 10<sup>th</sup> December 2018**

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**DECISION AND REASONS**

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## **Background**

1. On 22<sup>nd</sup> August 2018 the landlord applied to the Rent Officer for registration of a fair rent of £175 per week for the property. The Application states that the landlord provides no services.
2. The last registration by the Rent Officer on 15<sup>th</sup> August 2016 was £145 per week, effective from 6<sup>th</sup> October 2016. The uncapped rent was stated on the register to be £150 per week.
3. On the 3<sup>rd</sup> October 2018, the Rent Officer registered a fair rent of £163.50 per week, effective from 6<sup>th</sup> October 2018. The amount of the uncapped rent is £165 per week.
4. 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.
5. The Tenant requested a hearing at which oral representations could be made and this was arranged at the Mercure Hotel Brighton on the same day as the inspection.
6. Directions for the conduct of the matter were issued on 5<sup>th</sup> November 2018

## **Inspection**

7. The Tribunal Members inspected the property on Monday, 10 December 2018 in the company of the tenant, Mr. Evans. The landlord had been informed of the inspection but was not present or represented.
8. The property is a semi-detached, two-storey cottage which was originally built in about 1750 but was extended in 1885. Part of the building interlinks with the adjoining property at first floor level. At the rear of the house is a garden which provides parking with rear access via a roadway shared with Ladymead Nursing Home. There are sub-standard and dilapidated storage buildings against the front boundary wall. The building fronts directly onto the main local road through the small town of Hurstpierpoint to the east where the usual amenities are available.
9. The main roof is pitched and covered with tiles. The main walls are of solid

construction with brick and rendered elevations. Some windows were replaced by the landlord about 18 months ago with uPVC double glazed units. However, many of the old, single glazed timber casement windows remain. External paint to front woodwork is flaking and in need of renewal.

10. The accommodation is arranged as 2 bedrooms and bathroom/WC on the split level first floor and entrance lobby, living room and kitchen on the ground floor. A lean-to room between the entrance lobby and the rear garden serves as a storage room. The kitchen at rear leads to a lobby which incorporates a separate WC and leads to the rear garden.
11. There is no central heating and no main gas supply. Space heating is provided by independent wall mounted night storage and convector heaters which were supplied by the tenant. Hot water is supplied by two electric immersion heaters fitted to a pre-insulated storage cylinder in a bathroom cupboard and was installed by the tenant.
12. Floor coverings and curtains are limited and old and were provided by the tenant who also provided the white goods. The kitchen units are very old and in need of replacement. Similarly, the bath and sanitary fittings are mainly old and insanitary. Socket outlets are acceptable modern type and the consumer unit and trips are on the wall of the lower section of landing.
13. The Tribunal formed the overall impression that the property was being maintained to a minimal standard. It requires significant expenditure on modernisation and upgrading.
14. The Tribunal has not been provided with a copy of any Tenancy Agreement but the application to the Rent Officer states that the tenancy began on 21<sup>st</sup> February 1966 and the tenant advised that he has been in occupation for 52 years. As far as repairing and decorating liabilities are concerned, the Application to the Rent Officer states that the landlord is responsible for “Repairs and Exterior Decorations” and that the tenant is responsible for “Internal Decorations subject to Section 11 of Landlord and Tenant Act 1985”. The Rent Register states that the allocation of liability for repairs is on the same basis. Neither party has made any comment in submissions on the allocation of repairing and decorating responsibilities.

## **Representations**

### **Tenant**

15. The tenant wrote a letter dated 7<sup>th</sup> November 2018 but it is not clear to whom the letter is addressed. Amongst other things, the tenant refers to the following:
  - (a) “The Mid Sussex District Council used to have a Register for the Public to look at, but no longer have this service, so difficult for me to find out similar rents. But friends of mine who Rent in the private sector, think the rent is too high
  - (b) Regards the condition of the property, their [sic] has been no material improvement to the house in the 52 years I have lived in the house.
  - (c) The increase from £145 to £163.50 per week in my opinion it should be no more (then £10 per week)
  - (d) Over the last 18 months they did replace two windows and one door for structural problems”

### **Landlord**

16. The landlord’s managing agent responded to the observations made by the tenant in the form of a letter dated 22<sup>nd</sup> November 2018 which stated:

“We would challenge the Tenant who advises that nothing has been undertaken as according to our records, electrical works were carried out in 2014 and exterior decoration carried out in 2012, and it would appear that some issues have been dealt with possibly by the Landlord direct within the past 18 months”
17. The above is a summary of the points made by the parties and the Tribunal has considered the whole of the contents of the above documents in making its decision.

18. Neither party provided any evidence of rental value.

### **Hearing**

19. A hearing had been arranged at Mercure Brighton Seafront Hotel commencing at 14:00 on the day of the inspection. In the event, neither party attended or was represented. Accordingly, the Tribunal proceeded to make a determination based on the inspection and written submissions from the parties.

### **The law**

20. 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

21. (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)

22. 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 after 1999 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”)

23. 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.”

## **Valuation**

24. 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. In the absence of any comparable evidence from either party, the Tribunal used its own knowledge of general rent levels for this type of property and determined that the starting point should be £213.50 per week. This figure reflects the limitations of the property including the intercommunicating ground floor layout and the narrow and steep stairs between floors.
25. However, this starting rent is on the basis of a letting in good, modernised condition. In this case, adjustment must be made to reflect the work carried out by the tenant and the need for work of modernisation and repair as the rental bid in present condition would differ from the rent if the property were in good, modernised condition. The Tribunal is satisfied that the tenants are responsible for internal decorations. In order to reflect all the relevant considerations, the Tribunal has made the following deductions from the starting point of

£213.50 per week:

Completely outdated kitchen	£ 7.00
Inadequate bathroom and sanitary fittings	£ 5.25
Old and inadequate carpets and curtains	£ 6.50
Lack of central heating and h/w provided by tenant	£ 9.25
White goods provided by the tenant	£ 2.50
Tenant responsible for internal decorations	£ 5.75
External paintwork and general disrepair	£ 5.75
TOTAL DEDUCTIONS	£ 42 per week
Adjusted rent	£ 171.50 per week

26. We then considered the question of scarcity as referred to in paragraph 21(a) above. The Tribunal did not consider that there was any substantial scarcity element in the area of East Sussex and accordingly no further deduction was made for scarcity.
27. We therefore determined that the uncapped Fair Rent is £ 171.50 per week exclusive of council tax and water rates.
28. 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 £163.50 per week.
29. As the adjusted rent is above the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £163.50 per week is registered as the fair rent with effect from Monday, 10<sup>th</sup> December 2018
30. For information only, details of the rent calculated in accordance with the Maximum Fair Rent Order are shown on the rear of the Decision

**Accordingly, the sum of £163.50 per week will be registered as the fair rent with effect from Monday, 10<sup>th</sup> December 2018, being the date of the Tribunal's decision.**

**Chairman: R. A. Wilkey**

**Dated: Monday, 10<sup>th</sup> December 2018**

## **Appeals**

31. 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.
32. 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.
33. 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.
34. 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.
35. 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 make 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 permission.