



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

Case Reference : **CAM/00MF/F77/2018/0037**

Property : **Medwyn, Charvil Lane, Sonning, Reading RG4
6TH**

Applicant (Landlord) : **University of Reading**
Landlord's Agent : **Walmsley Residential Lettings**

Respondent (Tenant) : **Mr & Mrs Judd**

Type of Application : **Determination of a fair rent under section
70 of the Rent Act 1977**

Tribunal Members : **Judge JR Morris**
Mrs M Wilcox BSc MRICS
Mrs M Hardman FRICS IRRV

Date of Decision : **17th January 2019**

DECISION

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DECISION

1. The Tribunal determines a Fair Rent for the Property of £186.00 per week which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999.

REASONS

THE PROPERTY

2. The Property is a two-storey semi-detached house of brick under a tile roof constructed circa 1930. There are gardens to front, side and rear. There is a drive leading to an attached garage with flat roof.

Accommodation

The accommodation comprises a porch, entrance hall with stairs rising to the first floor, two reception rooms, a kitchen with pantry and a lobby, off which is a store and w.c. on the ground floor. There are three bedrooms and a bathroom with a separate wc on the first floor.

Services

Space and water heating are by a combination boiler central heating system. The Property has all mains connections.

Furnishing

The Property is let unfurnished.

Location

The Property is situated in the village of Sonning on a busy road about two miles from Caversham where there are a range of amenities. There is some local shopping in Sonning about a mile away.

THE TENANCY

3. The Tenants have occupied the Property on the basis that Mr Judd was a qualifying agricultural worker under the Rent (Agriculture) Act 1976 and the Property was provided under the terms of his employment with no rent payable. Mr Judd, having retired on the 1st October 2018, still enjoys similar protection to that afforded to tenants under the Rent Act 1977.
4. As a tenancy, not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the landlord's liability for repairs.

THE REFERRAL

5. The Landlord by a notice in the prescribed form received by the Valuation Office on 4th October 2018 proposed a new rent of £1,250.00 per calendar month. On 12th November 2018 the Rent Officer registered a rent effective from that date of £160.00 per week (equating to £693.00 per calendar month). The capping provisions under the Rent Acts (Maximum Fair Rent) Order 1999 did not apply as this was a first registration. On 19th November 2018 the Landlord's Agent objected to the rent assessed by the Rent Officer and the matter was referred to the Tribunal. The referral was by written representations and a hearing at the Property due to Mrs Judd's medical condition.

THE INSPECTION

6. The Tribunal inspected the Property in the presence of the Tenants and representatives from the Landlord's Agent, Mrs J Burns and Ms K Scholes.
7. Externally the Property is in fair condition. There is a large garden laid to lawn. The house has upvc double glazed windows and a timber front door and cast-iron rainwater goods. Some of the brickwork to the garage required some re-pointing.
8. Internally the kitchen is basic and dated and there are relatively few power sockets by modern standards. The first-floor bathroom, has been fitted with a walk-in shower and there is a wash hand basin. The w.c. is separate but does not have a wash hand basin. The extractor fan in the bathroom did not seem adequate as there was mould growth on the ceiling and the grout between the tiles. White goods, curtains and floor coverings are supplied by the Tenant.

9. The Tribunal noted that there was some cracking on the front bedroom ceiling which was said to have appeared relatively recently. There was also staining on the bedroom ceilings which appeared to indicate water ingress from the roof.

THE LAW

10. The Law relating to these reasons is contained in section 70 Rent Act 1977.

REPRESENTATIONS

11. The Landlord's Agent made written representations as follows:
12. It was said that the rent level assessed by the Rent Officer was too low.
13. The Property was considered to be located in a most exclusive and expensive area of Reading and more attractive than nearby Caversham which has a variety of property types which affects the average rent level. The Property is close to a local convenience store in Sonning and to the centres of Charvil and Twyford as well as the M4 and A4.
14. The longevity of occupation of the tenant should not be considered.
15. The following works were said to have been carried out on the Property:
 - a) In 2013 a ground floor w.c. and shower was installed (The Tribunal found that only a w.c. had been installed. There was no ground floor shower).
 - b) In 2017 the first-floor bathroom was fitted with a walk-in shower.
 - c) In 2017 a new condensing boiler was fitted.
 - d) In 2013 the exterior of the Property was redecorated.In 2010 cavity wall insulation was installed.
16. It was acknowledged that the interior of the Property was dated, particularly the kitchen, although the Tenants have not requested any refurbishment.
17. The Landlord's Agent also referred to two properties which were let by the Landlord under Rent Act 1977 tenancies and therefore had registered rents as follows:
High Copse Farm Cottages, Hyde End Road, Shinfield RG2 9ES,
Number 1 having a registered rent of £810 per calendar month/£186.92 per week,
Number 3 having a registered rent of £806 per calendar month/£186 per week.
18. In response to the Agent's representations the Tribunal explained that it was required to take as its starting point rental values for comparable properties in the private sector that are available on the open market. It did not assess the rent based on an average of rental values of a range of different types of properties.
19. It also did not take into account the longevity of occupation of the current tenant.
20. The Tribunal assessed the rent based on the condition of the Property as at the date of the inspection and so would take into account all the works that had been undertaken by the Landlord. However, it would disregard any improvements made by the Tenants.
21. With regard to the rental values for the properties which the Agent submitted as being comparable the Tribunal said that there was a logic in selecting similar

properties with registered rents, as the Property will now have a registered rent. However, registered rents are not considered to be a satisfactorily comparable because they are subject to variables which may not be apparent from the rent alone. For example, the rents may be capped under the Rent Acts (Maximum Fair Rent) Order 1999 and so may not relate to a market rent. In addition, any market rent may have been reduced due to the effects of scarcity under section 70 of the Rent Act 1977. That is to say that rents for similar dwelling houses in the locality may be substantially 'inflated' because demand for them exceeds supply. If a Rent Officer or tribunal find this to be so they must make a percentage reduction to the rent to reflect this 'inflation'. Even if these provisions did not apply, substantial details would need to be given regarding the property and its condition together with any deductions made, as well as the date of the assessment. None of this information was available.

22. The Tribunal referred to two properties it had noted in the area on Internet sites. One being a substantial modern 3-bedroom chalet style detached bungalow in Garde Road, Sonning with an asking rent of £1,400.00 per calendar month. The other being a 3-bedroom semi-detached house in Charvil Lane, Sonning about a mile towards Sonning Village from the Property and was to be let at a rent of £1,250.00 per calendar month. This was similar to the Property although had a modern kitchen and bathroom, was let with floor coverings and some white goods and was closer to the amenities of Sonning. These properties together with other similar houses on the market acted as a guide to rental values.
23. Mr Judd said that he had mentioned that there were very few electrical sockets. He said that he had worked long days for many years on the farm and it seemed a pity that this service could not be taken into account. However, he appreciated that the legislation did not allow the Tribunal to take account of personal circumstances.

ASSESSMENT OF A FAIR RENT

24. The Tribunal assessed the rent for the Property as at the day of the inspection pursuant to section 70(1) Rent Act 1977 having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances. A tribunal cannot consider the longevity of the occupation of the tenants.
25. The Tribunal took account of the relevant cases and legislation including *Spath Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24th May 1991.
26. The Tribunal is required to take as its starting point rental values for comparable properties in the private sector that are available on the open market which, since 15th February 1989, will be let under an Assured or Assured Shorthold Tenancy. The Tribunal does not take an average but considers the level of rents at which similar properties in the locality to the Property are let. The Agent's submissions on rental values for comparable properties lacked sufficient detail to be relied upon.
27. Therefore, the Tribunal used the knowledge and experience of its members. The Tribunal determined that in good condition with double glazing, central heating, modern kitchen and bathroom, and let with carpets, curtains and white goods on an Assured Shorthold Tenancy the Property would achieve £1,200.00 per calendar

month which equates to £277.00 per week. In determining this market rent the Tribunal took into consideration the location of the Property on a busy road about a mile outside Sonning.

28. The Tribunal found that the Property did not have all the features referred to above and so made a deduction of a global figure of £70.00 per calendar month (about 25%) for the lack of carpets, curtains and white goods, the dated kitchen, the limited number of electrical sockets, the lack of wash hand basin in the w.c. on the first floor and the inadequate extractor fan in the bathroom. It also takes account of the cracking in the front bedroom ceiling and the stains on the bedroom ceilings which indicate water ingress, which would concern a tenant with internal decoration responsibilities, as in this case. It may also show some need for repair. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

SCARCITY

29. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
30. That experience and consideration leads the Tribunal to the view that at the time of the determination demand for "... similar dwelling houses in the locality..." that are available for letting was significantly greater than supply. In this case "similar dwelling houses" being houses like the Property in a semi-rural position and "locality" in this case being Berkshire. Therefore, a deduction of 10% was made to take account of scarcity.

TRIBUNAL'S CALCULATIONS

31. Open Market Rent:	£277.00 per week
Less global deduction (approx. 25%)	<u>£70.00</u>
	£207.00
Scarcity @ 10%	<u>£ 21.00</u>
	£186.00

32. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 do not apply as this is a first registration of rent. Therefore, the rent determined by the Tribunal is to be registered.

33. This is the maximum rent that may be charged although a landlord may charge a lesser amount.

FAIR RENT = £186.00 per week

Judge JR Morris

Caution: The Tribunal inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

APPENDIX - RIGHTS OF APPEAL

1. If a party wishes to appeal the decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.