



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

Case Reference : CAM/38UF/F77/2018/0030

Property : 48 Webb Crescent, Chipping Norton,
Oxfordshire OX7 5HU

Applicant (Landlord) : Dorrington Residential Limited
Representative : Allsop Residential Investment Management
Ltd (ARIM)

Respondent (Tenant) : Mr SJ Widdows

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

Tribunal Members : Judge JR Morris
Mrs S Redmond BSc Econ MRICS

Date of Decision : 22nd January 2019

DECISION

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DECISION

1. The Fair Rent for the Property payable from the 22nd January 2019 is determined to be £675.00 per calendar month 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 end of terrace house of brick with tile cladding to the 1st floor elevation under a concrete tile roof. The windows and doors and rainwater goods are upvc. There is a garage in a separate block.

Accommodation

The Property is entered via a porch to a front door which opens directly into the living room from which rise stairs to the first floor, beyond the living room

is a dining room off which is the kitchen. On the first floor are three bedrooms and a bathroom with w.c. There are gardens to front and rear.

Services

The Property has mains electricity, water and drainage. Space heating is by the Tenant's own appliances and water heating is by a tank with an electric immersion heater.

Furnishing

The Property is let unfurnished.

Location

The Property is situated in a residential area on the outskirts of Chipping Norton.

THE TENANCY

3. The Tenancy is a statutory regulated monthly tenancy, which was transferred to the Property when the Tenants moved to it on 1st September 1993. Being a tenancy for 7 years or less, section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations. The Tenant is responsible for internal decoration.

THE REFERRAL

4. The current rent is £675.00 per calendar month registered on the 10th November 2016 and effective from 22nd December 2016. The Landlord by a notice in the prescribed form received by the Valuation Office Agency on the 26th September 2018 proposed a new rent of £9,720.00 per annum which equates to £810.00 per calendar month. On the 19th October 2018 the Rent Officer registered a rent of £675.00 per calendar month effective from 22nd December 2018. The registered rent was not a capped rent under the Rent Acts (Maximum Fair Rent) Order 1999 as the capped rent was higher than that set by the Rent Officer. On 30th October 2018 the Landlord referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.
5. The Tribunal finds that the period of the tenancy is a calendar month and so should be expressed as such. The period of the tenancy is important as it dictates the length of a notice to be given by a landlord where required.

THE INSPECTION

6. The Tribunal inspected the Property in the presence of the Tenant's spouse. The Property is situated on an estate of similar properties. There is non-allocated parking available in bays in the road. There is no parking on the Property. The Property has a garage in a nearby block.
7. Externally the Property is in fair condition. The rear garden is fenced and there is no rear access. The Tenant has erected a garden shed and a

greenhouse. The steps down to the Property from the pavement are steep and in poor condition.

8. The Property has at some time been extended creating a third bedroom and kitchen enabling the original kitchen to be converted into a dining area. The dining area is rather dark as natural light is from the kitchen through the original kitchen window and door apertures.
9. The Rent Officer's consultation notes refer to an investigation by the Landlord of damp. This identified a collapsed drain that passes from the foul and vent pipe which is situated in the dining area to the external kitchen wall. The Tribunal noted that outside, the water is coming to the surface and is seeping through the kitchen floor and rising up the external wall. This appears to have occurred over the past two years.
10. Internally kitchen and bathroom are dated and basic. There are two-night storage heaters on the ground floor installed by the Tenant. The floorcoverings, curtains and white goods are not provided by the Landlord.

THE LAW

11. The law applicable to this application is contained in the Rent Act 1977.

REPRESENTATIONS

12. The Landlords' Representative made written representations identifying the following properties which were said to be comparable (Internet Details were provided):
 - Norton Park, Chipping Norton, a 3-bedroom semi-detached house with an asking rent of £1,395 per calendar month, let agreed on assured shorthold tenancy.
 - Burford Road, Chipping Norton, a 3-bedroom cottage with an asking rent of £1,350.00 per calendar month, let agreed on assured shorthold tenancy.
 - Chipping Norton, a 3-bedroom semi-detached house with an asking rent of £1,295 per calendar month, let agreed on assured shorthold tenancy.
 - Cornish Road, Chipping Norton, 3-bedroom terraced house with an asking rent of £1,000, let agreed on assured shorthold tenancy.All properties appeared to be in good condition with heating and modern facilities.
13. The Landlords' Representative stated that they managed over 5,000 tenancies and said that one of their largest clients had noted rental increases of 7.5% over the past year. It was submitted that there was no scarcity as current demand in the area did not outstrip supply.
14. The Landlords' Representative submitted that a starting market rent would be a minimum of £16,060.00 per annum (which equated to £1,338.33 per calendar month). An appropriate fair rent would be £13,310.00 per annum based on the following calculation:

Market rent	£16,060.00 pa
Less	
Carpets/White Goods	£750.00
Updated Kitchen/Bathroom	£1,000.00
Heating	£1,000.00
Fair Rent	£13,310.00 pa (£1,109.16 pcm)

The Maximum Fair Rent under the Rent Acts (Maximum Fair Rent) Order 1999 was calculated as £9,107.50 per annum (equating to £758.950 per calendar month)

15. The Tenant stated that she considered the rent increase too high. She added that there had been no changes since the last rent review except that ongoing drainage problem.

RENT ASSESSMENT

16. 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). 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.
17. The Tribunal is required under the legislation and case law to assess a market rent for the Property taking into account the matters referred to above and considering whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time.
18. The Tribunal determines the rent based on the condition of the Property as at the day of the inspection. The Tribunal considered the properties referred to by the Landlord's Agent and found that Cornish Road, Chipping Norton with an asking rent of £1,000 per calendar month to be the most comparable although it was larger and in significantly more attractive condition with heating and a new bathroom and kitchen.
19. The Tribunal therefore determined that a market rent for the Property in good condition, with modern kitchen and bathroom double glazing, central heating and carpets, curtains and white goods was £950.00 per calendar month. The Tribunal considered that a deduction of £275.00 per calendar month should be made for the lack of heating, the dated and basic kitchen and bathroom, and the lack of floor coverings and white goods. This deduction also takes account of the damp in the kitchen. 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 to this Property.

SCARCITY

20. 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.
21. That experience and consideration leads the Tribunal to the view that there is no substantial scarcity of "... similar dwelling houses in the locality...", in this case Oxfordshire as at the day of the inspection, that are available for letting, and so no deduction is made to reflect this.

TRIBUNAL'S CALCULATIONS

- | | |
|-----------------------|----------------------------|
| 22. Market Rent: | £950.00 per calendar month |
| Less global deduction | <u>£275.00</u> |
| | £675.00 |

The Tribunal therefore confirms the Rent Officer's assessment.

23. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. The capped Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. The capped rent in this case is £757.50 per month which is more than the Fair Rent assessed by the Rent Officer which is confirmed by the Tribunal and therefore the rent of £675.00 per month assessed by the Rent Officer and confirmed by Tribunal is to be registered.

FAIR RENT = £675.00 per calendar month

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.