



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

Case Reference : CAM/33UC/F77/2018/0033

Property : 1 Hall Farm Cottages, 35 Church Road, Upton, Norwich
NR13 6AS

Tenant : Mr W. Taylor

Landlord : Hugh Crane Ltd

Type of Application : Determination of rent under Rent Act 1977

Tribunal Members : J. Lancaster Chairman
R. Thomas MRICS Valuer Member

Date of Decision : 28/02/19

STATEMENT OF REASONS

The Tribunal determined a Fair Rent of £115.00 per week.

THE PREMISES:

1. The Tribunal inspected the Property in the presence of the Tenant and his wife, Mr Crane, and Ms Hipperson, the Landlord's agent. It is a semi-detached, two-storey cottage, built of brick and tile, approximately 60 years old, with UPVC double-glazing. There are front and rear gardens, with sheds belonging to the Landlord. The Property is located on the edge of a small village, with a shop, approximately 2 miles from Acle, and 9 miles from Great Yarmouth. The external condition appears generally reasonable for its age, though some external re-decoration is required, especially to the gable-end barge boards. There are some localised areas of brickwork which need re-pointing, but generally the pointing is reasonable, and these would not be of significance to the rental value. There is parking for 2 cars about 50/60 m from the Property.

2. The accommodation consists of a hall, sitting room, dining room, WC with hand basin, small kitchen with pantry, and single-storey, single skin brick storm porch on the ground floor, with stairs to a landing, two double bedrooms, a small single bedroom, and a bathroom, but no WC, on the first floor. There is oil-fired central heating, installed in 2010. The kitchen fittings are basic, dated, and in poor condition, and the bathroom fittings are dated. The back door to the storm porch is in poor condition. The Tenant pointed out some limited areas of mould, and cracking to plaster, but these would not be of significance to the rental value. The wiring is dated. The carpets, curtains and white goods belong to the Tenant.

THE TENANCY

4. According to the Rent Register the Tenancy started in 2008, when Mr Taylor ceased to work for the Landlord. No rent has been charged until the Fair Rent registered by the Rent Officer, effective from 11/10/18, following an application by the Landlord for a Fair Rent to be registered. The Landlord's repairing obligations are as under section 11 of the Landlord and Tenant Act 1985.

THE APPEAL

5. The Rent Officer registered a Fair rent of £115.00 per week on 11/10/18, effective from that date. The rent registered was not capped under the provisions of the Rent Acts (Maximum Fair Rent) Order 1999, ('the Order'), because it was a first registration. The Tenant appealed, and a hearing was requested.

THE HEARING

6. The Tenant was represented by his wife, Mrs Taylor. The main relevant points of the Tenant's case can be summarised as follows;

- 1) 40, Church Road is very close to the Property, and is comparable in terms of type and overall size. A rent of £120.00 pw was set by the Rent Officer on the same day as a rent of £115.00 pw was set for the Property. The Landlord had applied for a rent of £120.00 pw on both properties. However, although the Tenant has never been inside 40, Church Road, the Tenant believes that the tenant of 40, Church Road has carried out significant improvements. Prior to these improvements, the Tenant believes that 40, Church Road was very similar to the Property in terms of size, accommodation and condition, but now 40, Church Road has a bigger kitchen, and an upstairs WC. 40, Church Road also has newer central heating installed by the Landlord in 2016/17, and parking in front, rather than 50/60 yards away. For these reasons, there should be a bigger difference in the Fair Rents for the two properties;
- 2) there are very few properties for rent in Upton, and further development has been ruled out. Therefore there must be scarcity in Upton and the immediate vicinity.

7. The main relevant points of the Landlord's case, made by Mr Crane, on behalf of the Landlord can be summarised as follows;

- 1) the Landlord is happy to accept the Fair rent determined by the Rent Officer;
- 2) the Landlord agrees that 35 and 40 Church Road are similar in terms of age and lay-out, apart from the improvements carried out by the tenant of 40, Church Road. The Landlord has carried out similar works to both properties, ie re-roofing, installing central heating and double glazing, though 40, Church Road was re-wired in 2017. The Landlord assumes that the difference in the Fair Rents assessed by the Rent Officer is mainly due to the closer parking for 40, Church Road.

THE LAW

7. Attached to this Statement of Reasons is a resumé of the law as applied by the Tribunal. It forms an integral part of the Reasons of the Tribunal.

THE DECISION

7. The Tribunal is required to determine the Fair Rent for the Property on the basis of the law to be applied. The determination is based on the condition of the Property as at the date of the inspection, as noted above.

8. The Tribunal noted the representations made by both parties at the hearing. It should be noted that;

- 1) in determining a Fair Rent any improvements carried out by a tenant, which he/she was not required to carry out under the terms of their tenancy agreement, are to be discounted; Therefore, from the evidence presented to the Tribunal, the only relevant differences between 35 and 40 Church Road, in terms of determination of a Fair Rent are the re-wiring, and the closer parking facilities – the Tribunal did not consider that the difference in the dates of installation of central heating would make any significant difference to the rent;
- 2) for the purposes of determining ‘scarcity’, ‘locality’ is defined as ‘a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent’, so a much larger area than Upton and its immediate vicinity.

10. The Tribunal does not base its decision on the Fair Rent determined by the Rent Officer, but must make a fresh determination. The assessment of a Fair Rent starts with an assessment of the open market rent for the Property, on the basis that it was let on the date of the Tribunal’s determination, in good condition, with modern facilities, carpets, curtains and some white goods. Evidence of Fair Rents for other properties is not helpful in assessing what the open market rent would be, as it is not possible to determine the open market rents upon which other Fair Rents were based, given that deductions may have been made from the open market rents in determining those Fair Rents. As neither party had produced any evidence as to comparable open market rents, the Tribunal relied on its knowledge and experience of open market rents in the area, and it is the Tribunal’s view that the open market rent for a similar property, in good condition, with modern facilities, including an upstairs WC, carpets, and some white goods, and taking into account the parking provided, would be £695.00 per calendar month.

10. The Property has to be valued without carpets or curtains, and on the basis of the facilities and condition of the Property as noted above, and so a deduction was made by the Tribunal, as set out in the calculation below. It should be noted that this figure cannot be a simple arithmetical calculation, but is the Tribunal’s estimate of the amount by which the rent would have to be reduced to attract a tenant.

11. As to scarcity, the Tribunal decided that there was no evidence of substantial scarcity of ‘similar dwelling houses in the locality’ available for letting and no deduction would be made to reflect this. It should be noted that, for these purposes, ‘locality’ is defined as ‘a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent’, and so the Tribunal determined that the ‘locality’ for these purposes as east Norfolk.

TRIBUNAL’S CALCULATIONS

Open market rent	£695.00 pcm
Less global deduction for condition, and lack of modern facilities, carpets and curtains and some white goods	£ 195.00 pcm
open market rent for subject property	£500.00 pcm
% deduction for scarcity	£ 00.00 pcm
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	£500.00 pcm
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This equates to £115.00 per week.

12. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 do not apply, as this is a first registration.

12. The Tribunal therefore determined a Fair Rent of £115.00 per week.

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Judge Lancaster

8/03/19

Caution: The Tribunal inspected the subject property for the purpose of reaching a decision. Such inspection is not a structural survey and only takes a few minutes. Any comments about the condition of the property in this Statement of Reasons are made as a result of casual observation rather than a detailed inspection. Please do not rely upon such comments as a guide to the structural condition of the property.

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this 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.

