



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

**Case Reference** : **BIR/00GG/F77/2019/0010**

**Property** : **Myers Cottage, Stottesdon, Kidderminster, DY14**  
**8NG**

**Applicant** : **Northumberland & Durham Property Trust Ltd.**

**Applicant's Agent** : **Grainger plc**

**Respondent** : **Mrs Frances Elizabeth Bentley**

**Type of Application** : **Appeal against the Rent Officer's Decision of Fair**  
**Rent under** **the s.70 Rent Act 1977**

**Tribunal Members** : **Mr I.D. Humphries B.Sc.(Est.Man.) FRICS**  
**Mr J. Arain**

**Date and Venue of** : **None. Paper Determination.**  
**Hearing**

**Date of Decision** : **11 March 2019**

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**DECISION**

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- 1 The Fair Rent is determined at £110.00 (One Hundred and Ten Pounds) per week from 11 March 2019.

## REASONS

### Introduction

- 2 Mrs Bentley holds a protected tenancy of Myers Cottage, Stottesdon, Kidderminster, DY14 8NG. The rent had previously been registered by the Rent Officer at £106.00 per week on 10 October 2016 to take effect from 18 November 2016. On 18 August 2018 the landlord applied for an increase to £127.20 per week and on 11 October 2018 the Rent Officer registered a new rent of £114.00 per week to take effect on 18 November 2018.
- 3 The landlord appealed against the Decision by letter to the Valuation Office Agency dated 5 November 2018 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 11 March 2019 and the Decision papers were sent to the parties with a copy of the Maximum Fair Rent calculation. On 20 March 2019 the Tribunal received a letter from the landlord requesting reasons for the Decision which are the subject of this document.

### The Law

- 4 Mrs Bentley is a protected tenant as acknowledged by the landlord. We have not been provided with a copy of the tenancy agreement but understand the property had been let unfurnished with the landlord responsible for repairs to the structure and exterior with the tenant responsible for internal decoration in accordance with s.11 of the Landlord & Tenant Act 1985.
- 5 Accordingly, the rent falls to be determined in accordance with s.70 of the Rent Act 1977.
- 6 S.70(1) states that in determining a fair rent, regard has to be had to all the circumstances of the tenancy (other than personal circumstances) including the age, character, locality and state of repair of the house, whether the property is let furnished and whether a premium had been paid or would be required to renew, continue or assign the tenancy.
- 7 s.70(2) adds a further qualification that it is assumed that the number of parties seeking to become tenants of similar houses in the locality on the terms of the tenancy (other than the rent) is not substantially greater than the number of houses available to let on such terms. This is usually referred to as 'scarcity' and the Court of Appeal held in *Spath Holme Ltd. v Chairman of the Greater Manchester Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 that under normal circumstances the fair rent would be the market rent discounted for scarcity. The Court also held that assured tenancy rents could be considered comparable to market rents.
- 8 s.70(3) requires the valuation to disregard any disrepair due to a tenant's failure to comply with the terms of the tenancy and any improvements carried out by either the tenants or their predecessor in title.

### Facts Found

- 9 The Tribunal inspected the property on 11 March 2019. It is a two storey brick and tile cottage in a remote part of rural Worcestershire 11 miles from Kidderminster, 8 miles from Bewdley and 10 miles from Bridgnorth.

There are no shops or other facilities in the immediate area, no bus routes and anyone living at the property would need their own car.

- 10 The accommodation comprises an entrance hall, kitchen and sitting room on the ground floor with a landing, three bedrooms and bathroom on the first floor. The property has double glazing and central heating radiators. Outside, the property has an attached single garage and garden with three off road parking spaces.
- 11 Mrs Bentley had fitted a log burning fire in the sitting room which is an improvement to be disregarded when assessing the rent under section 70 of the Rent Act 1977.

## Submissions

- 12 Neither party requested a Hearing but both made written submissions.
- 13 Mrs Bentley said that from May 2017 there had been a fault with the wiring causing the electrical circuits to trip up to 15 times per day. The landlord had fitted a new heating system after the original Rayburn ceased working but it was oil fired and expensive to run, whereas previously she had been given logs free of charge by her late husband's employer. Mrs Bentley drew attention to the remote rural location, the poor state of the porch and garage windows, the garage up and over door that needed to be propped open and the poor condition of the external decorations.
- 14 The landlord's agents sent written representations. They described the property and provided details of a property they considered comparable which was available to let known as Upper Northwood Farmhouse, advertised at £1,200 per month (£276.92 per week). In valuing the property, they considered the subject property lacked several amenities found in their comparable for which they deducted £10 for each facility lacking:

Views	£ 10.00 pw
New Kitchen	£ 10.00 pw
New Bathroom	£ 10.00 pw
Separate Shower Room	£ 10.00 pw
Floor coverings	£ 10.00 pw
Fourth Bedroom	£ 10.00 pw
Outbuildings	£ 10.00 pw
Utility	£ 10.00 pw
Attic Space	<u>£ 10.00 pw</u>
Total	£ 90.00 pw

- 15 They deducted £10 per week for scarcity, i.e. a reduction to reflect the point covered by section 70(2) of the Rent Act 1977.
- 16 In assessing the rent, the landlord took the asking rent for Upper Northwood Farmhouse of £276.92 pw, deducted £100 for the items in paragraphs (14) and (15) and a further £49.72 to allow for differences in accommodation to arrive at their proposed rent of £127.20 for Myers Cottage.

## Decision

- 17 To assess the Fair Rent the Tribunal need to assess the rental value of the house in good condition as a starting point, assuming it had been well maintained and modernised with

central heating, reasonable kitchen units and a bathroom suite in fair condition, fully equipped with carpets and curtains and ready to let in the open market.

- 18 The Tribunal found the accommodation to be in fairly basic structural condition (disregarding any effects of the tenant's occupation as required by the Rent Act 1977). The main factor likely to affect the rent would be the remote location which would be bound to deter a large number of the potential tenants. There would be demand but the tenant would have to be willing to drive some distance to the nearest shop or surgery, and in the Tribunal's experience most tenants preferred to have facilities nearby.

Based on the evidence supplied by the parties and the Tribunal's own general knowledge and experience, the Tribunal assessed the market rent of the property in good condition at £130.00 per week.

- 19 However, it had not been let in that condition. The Tribunal deducted £15.00 per month for the lack of carpets or curtains and £5.00 for the lack of white goods provided by the landlord. This left a net rent of £110.00 per week.
- 20 The Tribunal considered the question of scarcity in s.70(2) of the Rent Act 1977 but bearing in mind the remote location the Tribunal did not consider there would have been substantially more applicants than properties of this type to let in the area, and accordingly made no deduction for scarcity.
- 21 The rent was not limited by The Rent Acts (Maximum Fair Rent) Order 1999 as the rent determined was less than the maximum of £119.00 per week permitted by the Order.
- 22 There were no services to take into account.
- 23 Accordingly, the Tribunal determined the Fair Rent at £110.00 (One Hundred and Ten Pounds) per week with effect from 11 March 2019.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman

## **Appeal**

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after these reasons have been sent to the parties under Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.