



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

Case Reference : **CAM/11UC/F77/2019/0005**

Property : **7 Wey Lane, Chesham HP5 1JH**

Applicant (Landlord) : **BPT (Bradford Property Trust) Ltd**
Representative : **Grainger Plc**

Respondent (Tenant) : **Mr N Wakelin**

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

Date of Decision : **25th March 2019**

DECISION

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DECISION

1. The Fair Rent for the Property payable from 25th March 2019 is determined to be £170.50 per week which is the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999; the uncapped rent being £175.00 per week.

REASONS

THE PROPERTY

2. The Property is a two-storey semi-detached period cottage of brick and flint under a clay tile roof.

Accommodation

The front door opens from the street directly into the sitting room beyond which is the kitchen. Between the two rooms are stairs which rise to the first floor. Off the kitchen is a corridor which leads to the shower room which is in a single storey attached building. On the first floor are two bedrooms one to the front and the other to the rear. Off the rear bedroom are stairs leading to the second-floor bedroom. There is a garden and vehicular access to this area.

Services

The Property has mains gas, electricity, water and drainage. Space and water heating is by a gas central heating system.

Furnishing

The Property is let unfurnished.

Location

The Property is situated in the old town area of Chesham opposite a public house. There is local shopping and a range of facilities in Chesham.

THE TENANCY

3. The Tenancy is a statutory regulated weekly tenancy which commenced in 1982. 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 £153.00 per week registered on 6th February 2017 and effective from 20th March 2017. The Landlord by a notice in the prescribed form received by the Valuation Office Agency on the 21st December 2018 proposed a new rent of £762.00 per calendar month which equates to £175.00 per week. On 4th February 2019 the Rent Officer registered a rent of £160.00 per week effective from 20th March 2019. 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 21st February 2019 the Landlord referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.

THE INSPECTION

5. The Tribunal inspected the Property in the presence of the Tenant's spouse.
6. Externally the Property is in fair condition. The doors and windows, which have double glazed units, are timber. The windows were replaced some time ago but the sill to the sitting room window at the front was not and is now in poor condition. The paint is peeling off and there are signs of rot.
7. Internally as let the kitchen would be very basic and dated but for the Tenant's improvements in installing new units. The white goods are the Tenant's. The suspended timber floor in the kitchen rotted and collapsed and has been replaced by the Tenant. The floor in the pantry off the kitchen has rotted and collapsed but has not been replaced. The bathroom would be basic and dated but for the Tenant's improvements in installing a new w.c., wash hand basin and shower. The plaster is perished in a number of places making decoration difficult. The Tenant has dry lined the front bedroom and fitted a suspended ceiling.

8. The layout of the house is inconvenient in that the bedrooms are on the first and second floors and the bathroom on the ground floor. In addition, access to the third bedroom on the second floor is via the stairs which rise from the second bedroom on the first floor.
9. Much of the garden is taken up by a lean-to conservatory style structure against the house which was erected by the Tenant. The remainder of the garden is paved. There is a gate in the back fence to an area for parking two vehicles. Vehicular access to this area is via a shared lane to the side of the two semi-detached houses.

THE LAW

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

REPRESENTATIONS

11. The Landlords' Representative made written representations identifying the following properties which it was said were comparable (Internet details were provided):
Hampden Avenue, a newly built semi-detached house with lounge/dining room, kitchen, downstairs w.c., 2 bedrooms (one en-suite), bathroom, off street parking and gardens to let at £1,500 per calendar month (£346.00 per week). Described as having spacious lounge and en-suite bedroom.
Lindo Close a semi-detached house with lounge/dining room, kitchen, 3 bedrooms, bathroom, garage/utility room, driveway parking and gardens to let at £1,600 per calendar month (£369.00 per week).
12. Taking the above properties into account the Landlord's Representative submitted that £762.00 per calendar month was a fair rent.
13. The Tenant made no written representations.

RENT ASSESSMENT

14. 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.
15. 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.
16. 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 they were not comparable being more modern, larger with a different layout than the Property. Unlike the Property, they also had up to date fittings and floor coverings and some white goods.

17. The Tribunal determined that a market rent for the Property in good condition, with modern kitchen and bathroom double glazing, central heating and floor coverings and white goods was £265.00 per week. This takes into account the size of the Property with the front door opening directly into the front living room from the street, the shared access to the rear. It also takes into account the access to the third bedroom through the second bedroom together with the bathroom being on the ground floor which most tenants would find inconvenient and would be reflected in the rent they would be prepared to pay.
18. The Tribunal considered that a deduction of £90.00 per week should be made for what would be a dated and basic kitchen and bathroom but for the Tenant's improvements, the lack of floor coverings and white goods. The deduction also includes relaying of the suspended timber kitchen floor by the Tenant, the perished plaster and the condition of the living room window sill. 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

19. 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.
20. 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 Buckinghamshire as at the day of the inspection, that are available for letting, and so no deduction is made to reflect this.

TRIBUNAL'S CALCULATIONS

21. Market Rent: £265.00 per calendar month
Less global deduction £90.00
£175.00
22. 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 £170.50 per week which is less than the Fair Rent assessed by the Tribunal of £175.00 per week. Therefore the capped rent of £170.50 per week is to be registered.

FAIR RENT = £170.50 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.