



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

**Case Reference** : **CHI/43UC/F77/2019/0005**

**Property** : **28 Woodlands Road  
Epsom  
Surrey  
KT18 7HW**

**Type of Application** : **Determination of a fair rent:  
Rent Act 1977**

**Date of Decision** : **20 March 2019**

**Tribunal Members** : **Mr B H R Simms FRICS (chairman)  
Mr M J F Donaldson FRICS MCI Arb MAE**

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**REASONS FOR THE DECISION**

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**Background**

1. On 31 October 2018 the Landlord made an application to register the rent of the property at £1,093.00 per calendar month ('pcm').
2. The rent had been previously registered at £860.00 pcm on 12 December 2016 effective from 26 January 2017.
3. On 12 December 2018 the Rent Officer registered the rent at £950.00 pcm exclusive of council tax and water rates with effect from 26 January 2019.
4. By letter dated 06 January 2019 the Tenant made brief representations to the Rent Officer and objected to the rent set. The matter was referred to the First Tier Tribunal (Property Chamber).

5. Directions for the conduct of proceedings were issued dated 20 January 2019. Neither party submitted written representations in response to the Directions. The Tenant requested an oral hearing.

### **Inspection**

6. On 20 March 2019 the Tribunal inspected the property accompanied by the Tenants, Mr & Mrs Clarke, the Landlord was not represented.
7. The property is a two-bedroom mid terrace house probably constructed in the early 1900s of brick with a pitched, tile-covered roof. It was found to be generally in satisfactory condition.
8. The accommodation comprises: Ground Floor: Two Living Rooms; Kitchen fitted with worktops, cupboards and sink leading to Bathroom with W.C. bath and washbasin; First Floor: Small Landing; Two Bedrooms; Outside: Paved gardens to front and rear, rear pedestrian access.
9. There is no central heating, gas is not connected. There are modern replacement double glazed windows and an open fireplace in the living room. Water is heated by electric immersion heater.

### **Hearing and Representations**

10. When making their objection to the Rent Officer Mrs Clarke wrote saying that the proposed increase was large bearing in mind that this level of rent is higher than the unprotected rent being paid by their neighbour in a similar property. They reminded the Rent Officer that there is no gas at the property, or central heating and they are 'all electric'. Everything in the house belongs to them including white goods.
11. The Tenants explained that they have lived at the property for 50 years and have undertaken nearly all the work carried out at the house.
12. The hearing took place at the property following the inspection. The Tribunal had been advised that the Landlord would not make written representations or attend a hearing. Mr & Mrs Clarke the Tenants addressed the Tribunal.
13. Mr & Mrs Clarke had been Tenants since 1968 at which time there was a close and friendly relationship with the then Landlord. Mr Clarke explained that he had understood that they would have an opportunity to purchase the house so he carried out repairs and improvements without troubling the Landlord. The gardens had been completely renovated by laying paving, erecting fences and sheds etc. The house itself was in a poor state of repair at the outset and the Tenants had renovated and repaired the property.
14. Improvements had been carried out including upgrading the kitchen which had had worktops and cupboards and a sink but of poor quality. The bathroom suite was in poor order but serviceable and the Tenants had replaced the bath and washbasin. Certain cosmetic works had been undertaken including replacing doors and fireplaces and decorating.

15. The Tenants had supplied carpets, curtains and white goods.
16. The landlord rewired the electrical installation in about 2005 and had installed modern double glazed windows. When the fencing needed repair the Landlord had paid for fencing panels installed by the Tenants.
17. Apparently the house next door was let at £925.00 pcm although the date of the rent or the tenancy terms were not know. Further up the road the Tenants knew of a refurbished house let at £1,275 pcm.

## **The law**

18. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard the personal circumstances of the Landlord or the Tenant and the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
19. Ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms (other than as to rent) to that of the regulated tenancy).
20. For the purpose of determining the market rent, assured tenancy rents (market rents) are usually appropriate comparables. (These rents have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).
21. The Rent Acts (Maximum Fair Rents) Order 1999<sup>1</sup> ("MFR") introduced statutory maximum (capping) limits to fair rents calculated using a formula based upon the previously registered rent, a standard addition and an inflation factor.

## **Valuation**

22. In the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today on the terms and in the condition that is considered usual for such an open market letting.
23. The Tenants gave general information regarding rental levels in the locality but did not provide formal evidence of open market lettings. The Landlord made no representations. The Tenants' information had to be balanced with on our own general knowledge of rent levels for this type of property in the locality. The rent quoted for the adjoining house was out of step with general rental levels but that quoted for a house down the road fitted more closely the relevant tone of rents. Accordingly we determined that the starting point should be £1,275.00 per calendar month.

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<sup>1</sup> The Rent Acts (Maximum Fair Rent) Order 1999 SI 1999 No. 6

24. However, the rent referred to in the above paragraph is on the basis of a modern open market letting of a centrally heated property where the tenant has no liability to carry out repairs or decorations and the landlord supplies white goods, carpets and curtains.

25. In this case there is no central heating and the Tenants have improved the kitchen and bathroom fittings. The Tenants have supplied their own white goods, carpets and curtains and the terms of this tenancy require the tenant to carry out internal decorations. The Tribunal has therefore made a deduction of £280.00 from the starting point of £1,275.00 pcm made up as follows:

a. Decorating obligations	£30.00
b. Carpets/curtains	£50.00
c. White goods	£50.00
d. No central heating	£100.00
e. Improvements to kitchen	£30.00
f. Improvements to bathroom	£20.00

Total deductions £280.00 pcm

26. In making these adjustments the Tribunal, using its own knowledge and experience, has assessed the likely reduction that a hypothetical tenant would make in its rental bid to allow for the differences compared to the rent for a similar property on the basis of a modern open market letting on usual terms with the facilities and amenities described.

27. We then considered the question of scarcity as referred to in paragraph 18 above and concluded that there should be no adjustment.

28. We therefore determined that the uncapped Fair Rent is £995.00 per calendar month exclusive of council tax and water rates.

29. As this amount is above the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice we determine that the lower sum of **£954.50 per calendar month** is registered as the fair rent with effect from **20 March 2019**.

Chairman: B H R Simms

Date: 20 March 2019

## **PERMISSION TO APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) on a point of law must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.