



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

Case Reference : **CAM/11UB/F77/2019/0007**

Property : **The Old School House, Thame Road,
Chilton, Aylesbury HP18 9LX**

Applicant (Tenant) : **Mrs Norma Rolfe**

**Respondent (Landlord):
Agent** : **Chilton Home Farms Ltd
The Estates Office (Ms Alison Cowan)**

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

Tribunal Members : **Judge JR Morris
Mrs Wilcox BSc MRICS**

Date of Decision : **30th April 2019**

DECISION

© CROWN COPYRIGHT 2019

DECISION

1. The Fair Rent for the Property payable from the 30th April 2019 is determined to be £169.50 per week which is the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. The uncapped rent being £185.00 per week.

REASONS

THE PROPERTY

2. The Property is a Victorian two-storey semi-detached house of brick with stone mullioned windows under a clay tile roof. The attached building is the old school and is now commercial premises.

Accommodation

The Property comprises a hallway with stairs rising to the first floor, two living rooms, a kitchen and utility room on the ground floor, two bedrooms, a bathroom and a shower room with w.c on the first floor. There are gardens to

the rear and a garage in the commercial premises car park which was once the school playground.

Services

The Property has mains electricity, water and drainage. Space and water heating are by an oil-fired central heating system.

Furnishing

The Property is let unfurnished.

Location

The Property is situated in a rural village equidistant between Oxford and Aylesbury.

THE TENANCY

3. The Tenancy is a statutory regulated weekly tenancy, which commenced in 1966. 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 £152.00 per week registered on the 13th February 2017 and effective from 5th April 2017. The Landlord by a notice in the prescribed form received by the Valuation Office Agency on the 1st February 2019 proposed a new rent of £691.59 per calendar month which equates to £160.00 per week. On the 25th February 2019 the Rent Officer registered a rent of £169.50 per week effective from 5th April 2019. The registered rent was capped under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £185.00 per week. On 6th March 2019 the Tenant 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.
6. Externally the Property is in good condition and appeared well maintained by the Landlord. There are upvc double glazed windows and secondary double glazing. There are upvc rainwater goods. There is a garden to the side and rear. The garage is of asbestos construction and is in fair to poor condition in that it leaks.
7. Internally the Property is in good condition and kept well by the Tenant. The kitchen was refitted by the Tenant and the original would have been dated if the tenant had not installed new units. The white goods are the Tenant's. The bathroom and shower room are well fitted. Floor coverings are the Tenant's. The Tenant's husband was a carpenter and built cupboards into the chimney breast alcoves of the living rooms and wardrobes in the bedrooms.

8. There is a conservatory which was built by the Tenant and so is disregarded for the assessment of rent being a Tenant's improvement.

THE LAW

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

REPRESENTATIONS

10. In written representations the Tenant stated that she considered the increase on the previous rent of £75.54 per month excessive when the previous increase was only £56.33. She noted that Landlord had proposed a rent of £691.59 per calendar month which she considered reasonable (being an increase of £32.93. She found the increase difficult to afford as a widow.
11. The Landlord made no representations.

RENT ASSESSMENT

12. 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.
13. The Tribunal is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market taking into account the matters referred to above. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time.
14. Neither party provided rental values of comparable properties, therefore the Tribunal used the knowledge and experience of its members. The Tribunal determined that the rent for the Property, taking into account the location, in good condition with central heating, double-glazing, modern kitchen and bathroom, and let with carpets, curtains and white goods on an Assured Shorthold Tenancy on the same terms at the time of inspection would be £240.00 per week, the Tribunal made a global deduction of £55.00 per week to take account of what would be a dated kitchen but for the Tenant's improvements, the Tenant having fitted cupboards and wardrobes and the lack of floorcoverings and white goods which are provided in most comparable properties let on assured shorthold lettings. 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.

SCARCITY

15. 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.
16. 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

- | | |
|-----------------------|------------------|
| 17. Market Rent: | £240.00 per week |
| Less global deduction | <u>£55.00</u> |
| | £185.00 |

As the uncapped Fair Rent of £185.00 per week assessed by the Tribunal is the same as that assessed by the Rent Officer, the Tribunal therefore confirms the Rent Officer's assessment.

18. 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 £169.50 per week, which is less than the Fair Rent assessed by the Rent Officer which is confirmed by the Tribunal of £185.00 per week and therefore the capped rent is to be registered.
19. The Tenant wondered why the rent had risen so much. It will be noted that the market rent for the Property in 2017 was assessed as being £175.00 per week and in 2019 as being £185.00 per week, a rise of only £10.00. This is because over the two years there has not been a significant increase in rents in this area. However, both rents are 'capped' under the Rent Acts (Maximum Fair Rent) Order 1999. This legislation has the advantage to tenants of tenancies under the Rent Act 1977 of ensuring that rents do not rise more than inflation as measured by the Retail Price Index (RPI). However, there are occasions when the RPI rises faster than rents, as in the present case. So, although the market rent only rose £10.00 per week, the capped rent, which is linked to the RPI, rose by £17.50 (£152.00 to £169.50) per week. However, it should be noted that the capped rent in this instance is £15.50 below the current market rent.
20. Although the rent set by the Rent Officer and tribunal is the maximum rent that may be charged a landlord may charge a lesser amount as a landlord can take factors into account, such as personal circumstances, which neither the Rent Officer nor the Tribunal can under the legislation.

FAIR RENT = £169.50 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.