



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

**Case Reference** : **CHI/29UQ/MNR/2019/0008**

**Property** : **3 & 4 Fairview Cottages  
Back Road  
Sandhurst  
Kent TN18 5JT**

**Type of Application** : **Determination of market rent:  
Housing Act 1988**

**Date of Decision** : **29 April 2019**

**Tribunal Members** : **Mr B H R Simms FRICS (Chairman)  
Mr N I Robinson FRICS (Valuer Member)**

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**REASONS FOR THE DECISION**

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**Background**

1. On 31 January 2019 the Landlord served a notice under Section 13(2) of the Housing Act 1988 ('the Act') which proposed a new rent of £665.92 per calendar month in place of the existing rent of £640.00 per calendar month to take effect from 01 February 2019.
2. On 28 February 2019 the Tribunal received an application from the Tenant under Section 13(4) (a) of the Act.
3. The Tribunal issued Directions dated 14 March 2019 and informed the parties that the Tribunal intended to determine the rent on the basis of an inspection of the property and written representations subject to the parties requesting an oral hearing. No request was made by the parties for a hearing. Both parties submitted statements which were circulated and the Tribunal proceeded to determine the case based on its inspection and the written statements.

## **Inspection**

4. On 29 April 2019 the Tribunal members inspected the property accompanied by the Tenant's husband. The Landlord had been informed of the date and time of the inspection but was not represented.
5. The property was originally two adjoining cottages but some time ago these were combined with an opening at ground floor level but retaining two staircases. The property is occupied as an end-of-terrace house. The accommodation is inconveniently arranged but in summary comprises: Ground Floor: Two Living Rooms, Kitchen with sink, second Kitchen/Utility Room with redundant copper and sink, Cloakroom with W.C. and washbasin; First Floor: Landing, Two Bedrooms; Second (Attic) Floor: Bathroom with bath, washbasin & W.C., Attic Store; Outside: Gardens to front and rear, shared drive, parking area for two cars.
6. The building is constructed of brick walls to first floor level on the front elevation with timber shiplap boarding to the upper parts and brick elsewhere. The roof is multi-pitch mansard design covered with clay tiles and slates to rear lean-to slope. The age is estimated to be early 19<sup>th</sup> century and the building is Grade II listed. It is located in a semi-rural location some distance from local amenities.
7. The building's condition is as would be expected for its age but there has been a lack of maintenance. The front gutters are dilapidated and the shiplap boarding is in urgent need of redecoration. Some other areas of woodwork are rotten. There is evidence of water penetration and dampness around the inglenook fireplace and the associated chimney is in need of re-pointing. There are several missing or dislodged tiles and slates to the roofs and cheeks and some signs of leaks. The windows are single glazed and some putties are loose.
8. There is no central heating but mains electricity and drainage are connected. There is no gas supply.

## **The Tenancy**

9. The Tribunal was advised by the Tenant that there is no written Tenancy Agreement. She states that she is responsible for internal decorations and tenants fixtures and fittings with the Landlord dealing with all other repairs in accordance with the Landlord & Tenant Act. The Landlord made no comment on the tenancy terms.

## **The parties' representations**

10. Both parties made detailed representations and these are briefly summarised here. The Tribunal has taken account of all the representations in making its determination.
11. In their initial application the Tenant outlined a list of works and improvements that she had carried out since January 2001 as follows:
  - Complete fencing to garden
  - Off road parking for two cars
  - Insulation to external walls of Bedroom 1, Kitchen & cloakroom

- Installation of electric storage heaters
  - Kitchen units
  - Boarding of attic store
  - Replacement skirting boards
  - Bathroom wall tiling
  - Built-in lounge cupboards
  - Provide garden sheds
  - Upgrade cloakroom with wall and ceiling insulation and electric panel heater
  - Garden steps, retaining wall [and paving under construction]
12. In addition she provided photographs and descriptions of the various repairs outstanding at the property which are summarised in the inspection notes above. She is concerned that the Landlord is not undertaking repairs necessary to maintain the building which is deteriorating and allowing an infestation of cluster flies.
13. Mrs Rogers supplied particulars of two properties as comparable for rental valuation. A cottage in Berners Hill offered at £725.00 per month with 2 Bedrooms but having central heating and recent decorations together with a modern kitchen and carpets. The second property is an auction lot comprising a three bedroom house in need of repair in Barming for sale freehold with a sitting tenant paying £400.00 per month.
14. Ms Dimmock of the Landlord provided a statement in response to the Directions. She describes the property and its location close to main roads with links to London and the South West Coast from Ashford and Europe via the Channel Tunnel.
15. The Landlord identifies numerous repairs that are required and provides a builders estimate for the work which has yet to be undertaken. It has proposed a new rent based on increasing the existing rent by 'inflation' (RPI) [figures not provided] as a valuation based on comparables is not appropriate because of the condition and style of the house. The Grade II listing limits the major improvements that could be undertaken [not listed].
16. Three comparable properties are listed with internet link addresses for particulars within a 3 mile radius. [One of these has been removed from the website by the agent but the Tribunal accessed particulars of the other two and showed printouts to the Tenant's husband at the inspection].
17. The first is described as a 2-bedroom attached cottage forming part of a converted Victorian school with accommodation on three floors. It has a living Room/dining room, a modern fitted kitchen, modern bathroom and en-suite shower to one of the two bedrooms. There is central heating and off-road parking in a central village location. It is offered at £795.00 per month.
18. The second is described as a 3-bedroom terrace house which is modern in appearance in Hawkhurst and has a large living room/diner, three bedrooms, modern fitted kitchen and bathroom and off-road parking. It has gas central heating and double glazing. It is offered at £895.00 per month.

## The law

S14 of the Act Determination of Rent by First-tier Tribunal:

*(1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-*

*(a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;*

*(b) which begins at the beginning of the new period specified in the notice;*

*(c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and*

*(d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.*

*(2) In making a determination under this section, there shall be disregarded-*

*(a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;*

*(b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-*

*(i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or*

*(ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and*

*(c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.*

*(3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates or the following conditions are satisfied, namely-*

*(a) that it was carried out not more than twenty-one years before the date of service of the notice; and*

*(b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and*

*(c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.*

*(4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of*

*that section, whether or not those sums are separate from the sums payable for the occupation.*

*(7) ...the rent determined ... shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the appropriate tribunal that that would cause undue hardship to the tenant, with effect from such later date ... [that the Tribunal determines] not later than the date of the determination.*

## **Consideration and Valuation**

19. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy. The personal circumstances of the Tenant are not relevant to this issue.
20. There has been reference to the condition of the property and the various improvements made by the Tenant. Our valuation is on the assumption that the building does not have the benefit of these improvements and is in the condition as we inspected. The landlord identified a list of works that are due to be undertaken but for the purpose of this valuation these have been ignored as they are not yet relevant.
21. 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. The Tribunal was assisted by the comparables submitted by the Tenant and the Landlord but we agree with the Landlord that it is difficult to make adjustments directly for the differences between other properties and the subject premises. We do not, however use RPI adjustments as rents are not directly related to general inflation measures and rent is not included in the basket of items used to calculate RPI.
22. We have had regard to the comparables making adjustments as required and we have also relied on our own knowledge of general rent levels for this type of property in the area. Having regard to these matters we determined that the starting point for this property taking account of its location but with heating would be £795.00 per calendar month. However, this rent is on the basis of a modern open market letting where the tenant has no liability to carry out internal repair or redecorations, and the landlord supplies white goods, carpets and curtains.
23. In this case the Tenant supplies their own white goods & curtains and the terms of this tenancy require the tenant to carry out internal decorations so a deduction must be made for these differences.
24. The Tribunal has therefore made the following deductions of £155.00 from the starting point of £795.00 per calendar month. As the parties did not supply any evidence of allowances that they might make these are based on our estimate of the lower rental bid that might be made by a hypothetical tenant to allow for the differences when compared to a modern market letting.

a. Tenant repair and redecorating obligations	£20.00
b. Curtains & carpets	£20.00

c. White goods	£20.00
d. Original kitchen fittings	£20.00
e. Lack of central heating	£30.00
f. General disrepair	£15.00
g. No off-road and limited street parking	£10.00
h. Poor layout	£20.00

Adjusted rent £640.00.per calendar month

## Determination

25. The Tribunal therefore decided that the rent of £640.00 per calendar month is the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy which means that the rent shall not be increased.
26. The Tribunal then considered the starting date for the new rent and as no submission that she will suffer hardship as provided for in S. 14 (17) of the Act the new rent of **£640.00 per calendar month** is to take effect on **01 March 2019** the date specified in the Landlord's notice.

**Chairman: B H R Simms**

**Date: 29 April 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.