



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

Case Reference : **CHI/43UF/F77/2019/0015**

Property : **6 Coney Croft, Horsham, West Sussex
RH12 4EW**

Landlord : **Northumberland and Durham Property Trust**

Represented by : **Grainger Plc**

Tenant : **Mr. J. T. Batchelor**

Type of Application : **Rent Act 1977 (“the Act”) Determination
by a First Tier Tribunal of the fair rent
of a property following an objection to
the rent registered by the Rent Officer.**

Tribunal Members : **Mr. R.A. Wilkey FRICS (Valuer Chairman)
Mr. N. I. Robinson FRICS (Valuer Member)**

Date of Inspection : **Monday 20 May 2019
No hearing. Paper determination.**

Date of Decision : **Monday 20 May 2019**

DECISION AND REASONS

Background

1. On 4th January 2019 the landlord applied to the Rent Officer for registration of a fair rent of £239 per week for the property. The Application states that the landlord provides no services.
2. The last registration by the Rent Officer on 30th January 2017 was £200 per week, effective from 9th March 2017. The amount of the uncapped rent was not stated on the register. There was an appeal against this registration and, on 3rd April 2017, the Tribunal determined a fair rent of £208 per week. The Maximum Fair Rent at that date was stated to be £213 per week.
3. On the 18th February 2019, the Rent Officer registered a fair rent of £220 per week, effective from 3rd April 2019. The amount of the uncapped rent is not stated on the register.
4. The Landlord objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal (Property Chamber) Residential Property.
5. Directions for the conduct of the matter were issued by the Tribunal Office on 22nd March 2019 and, amongst other things, the parties were advised that the determination will be made on the written representations unless a request for an oral hearing is made within fourteen days. Neither party requested a hearing at which oral representations could be made.

Inspection

6. The Tribunal Members inspected the property on Monday, 20th May 2019 in the company of the tenant, Mr. Batchelor, and his wife. The landlord had been informed of the inspection but was not present or represented.
7. The property is a mid-terrace house which was probably built in about 1975 and forms part of a mixed, established, residential area comprising mainly houses of similar age and style. There is a single lock-up garage in a compound at rear with shared access. Parking in Coney Croft is currently unregulated. There are small, well-maintained gardens to front and rear.
8. The main roof is pitched and covered with tiles. The main walls are of cavity

construction with brick elevations. All windows have been replaced by the landlord with uPVC double glazed units and a double-glazed door leads from the dining area to the rear garden. External paintwork is in broadly serviceable condition but deteriorating to front and rear soffits and fascias including flaking paint and areas of decay.

9. The accommodation is currently arranged as:

First floor:

Landing, three bedrooms, shower room/WC

Ground Floor:

Entrance hall, separate WC, living room/dining area, kitchen.

Outside:

Gardens to front and rear. There is access from the rear garden to the garage compound.

10. Central heating is provided by a gas fired boiler in the kitchen which feeds radiators in the main rooms. A secondary hot water is supplied by an electric immersion heater fitted to a pre-insulated storage cylinder within a cupboard on the landing and it was installed by the landlord.
11. The tenant has provided floor coverings, curtains and white goods. Modern fitted units in the kitchen were installed by the tenant together with wall tiling in this room. The original bathroom suite has recently been replaced by the tenant with a modern shower tray and screen, wash basin, WC and towel rail.
12. The Tribunal formed the overall impression that the property was being fairly well maintained for a property of this age and method of construction, albeit some relatively minor expenditure is required on maintenance of the exterior.
13. The Tribunal has not been provided with a copy of any Tenancy Agreement but the Application states that the tenancy began on 1st February 1979. As far as repairing and decorating liabilities are concerned, the application to the Rent Officer states that the landlord is responsible for repairs and external decorations and that the tenant is responsible for internal decorations. The Rent Register states that the allocation of liability for repairs is "Landlord responsible for repairs and external decorations. Tenant responsible for

internal decorations – subject to Section 11 Landlord and Tenant Act 1985”. The parties have not provided any further information or made any comment on the apportionment of responsibility for repairs and decorations.

Representations

14. Neither party has made a request for a hearing. The Tribunal thus proceeded to make the determination based on the inspection and written representations, supplemented with its own knowledge and experience.
15. The tenant has not made any written representations.
16. The landlord made written representations and referred to the following comparables within 3 miles of the subject property. These properties are available to let at the quoted rents.

Rusper Road, Horsham

This is a 3-bedroom, semi-detached house with off road parking. The asking rent is £1,200 pcm (£276.92 per week).

Macleod Road, Horsham

This is a 3-bedroom, semi-detached house with a garage. The asking rent is £1,195 pcm (£275.76 per week).

[Unspecified address] Horsham

This is stated to be a 3-bedroom property. The asking rent is £335 per week.

17. The above is a summary of the points made by the parties and the Tribunal has considered the whole of the contents of the above documents in making its decision.

The law

18. When determining a fair rent, the Committee, in accordance with section 79 of the Rent Act 1977, had regard to all the circumstances including the age, location and state of repair of the property. The Committee also

disregarded the effect of (a) any relevant tenant's improvements and (b) 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. (a) 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) and

(b) for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property)

20. The Rent Acts (Maximum Fair rent) Order 1999 applies to all applications for registration of a fair rent (other than a first application for registration) made to the Rent Officer on or after 1 February 1999. Its effect is to place a "cap" on the permissible amount of the increase of a fair rent between one registration and the next by reference to the amount of the increase in the retail price index between the date of the two registrations plus 7.5% in the case of a first re-registration and 5% thereafter. The Committee must first determine a fair rent ("the uncapped rent") and then consider whether the Order applies so as to limit the increase in the rent ("the capped rent")

21. There are two principle exceptions. This is not the first registration so the relevant exception is contained in Art.2(7) of the 1999 Order and is as follows:

"This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed."

The Tribunal has not been made aware of any relevant works carried out to the property by the Landlord since the last registration.

Valuation

22. First of all, 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 had regard to the comparables provided by the landlord and supplemented this with its own knowledge of general rent levels for this type of property and determined that the starting point should be £265 per week.
23. However, this starting rent is on the basis of a letting in good, modernised condition. In this case, adjustment must be made to reflect the work carried out by the tenant and the tenant's repairing covenants which are more onerous than would normally be found in an Assured Shorthold Tenancy. In order to reflect all the relevant considerations, the Tribunal has made the following deductions from the starting point of £265 per week:

Carpets and curtains provided by tenant	£ 9.50
White goods provided by tenant	£ 4.75
Kitchen refurbished by tenant	£ 8.00
Bathroom modernised by tenant	£ 5.75
Tenant responsible for internal decorations	£ 7.00
TOTAL DEDUCTIONS	£ 35.00 per week
Adjusted rent	£ 230.00 per week

24. We then considered the question of scarcity as referred to in paragraph 19(a) above. In the case of *Metropolitan property Holdings ltd. v Finegold (1975) 1 WLR 349*, Lord Widgery said "If the house has inherent amenities and advantages, by all means let them be reflected in the rent under subsection(1); but if the market rent would be influenced simply by the fact that in the locality there is a shortage, and in the locality rents are being

forced up beyond the market figure then that element of market rent must not be included when the fair rent is being considered.” This statement highlights the distinction between increase in rents that results from the benefits of local amenities which is permitted under section 70(1) of the 1977 Act, and increases in rent that are caused by demand exceeding supply which is not permissible and regulated by section 70(2) of the 1977 Act.

25. The Tribunal is required to consider scarcity in respect of demand and supply in the context of a sizeable area so as to ensure that the benefits of local amenities are neutralised and also to give a fair appreciation of the trends of scarcity and their consequences. The Tribunal should only give a discount for scarcity if it is substantial.
26. The Tribunal has given the matter careful thought and concludes that there is no substantial scarcity element in an area within a radius of approximately 50 miles of the subject property. Accordingly, no further deduction was made for scarcity.
27. We therefore determined that the uncapped Fair Rent is £230.00 per week per week exclusive of council tax and water rates.
28. The Tribunal finds that by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that could have been registered in the present case is the sum of £230 per week.
29. As the adjusted rent is the same as the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the sum of £230 per week is registered as the fair rent with effect from Monday 20th May 2019
30. For information only, details of the rent calculated in accordance with the Maximum Fair Rent Order details are shown on the rear of the Decision

Accordingly, the sum of £230 per week will be registered as the fair rent with effect from Monday 20th May 2019, being the date of the Tribunal's decision.

Chairman: R. A. Wilkey

Dated: Monday 20th May 2019

Appeals

31. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) 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.
32. 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.
33. 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 the time limit, or not to allow the application for permission to appeal to proceed.
34. 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.
35. If the First-tier Tribunal refuses permission to appeal, in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission.