



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

Case Reference : **CHI/43UC/F77/2019/0013**

Property : **34 The Crescent, Epsom, Sussex KT18
7LL**

Landlord : **Bradford Property Trust (BPT) Ltd.**

Represented by : **Grainger Plc**

Tenant : **Mr. I. L. Card**

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. B. H. R. Simms FRICS (Valuer Member)**

Date of Inspection : **Tuesday 30 April 2019
No hearing. Paper determination.**

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

DECISION AND REASONS

Background

1. On 10th December 2018 the landlord applied to the Rent Officer for registration of a fair rent of £1,128 per month for the property. The Application states that the landlord provides no services.
2. The last registration by the Rent Officer on 19th January 2017 was £981 per month, effective from 4th March 2017. The uncapped rent was stated on the register to be £985 per month.
3. On the 22nd January 2019, the Rent Officer registered a fair rent of £1,040 per calendar month, effective from 4th March 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 29th 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
6. Neither party requested a hearing at which oral representations could be made.

Inspection

7. The Tribunal Members inspected the property on Tuesday 30th April 2019 in the company of the tenant, Mr. Card. The landlord had been informed of the inspection but was not present or represented.
8. The property is a semi-detached house which was probably built in about 1935 and forms part of an established, residential area comprising mainly houses of similar age and style. There is no garage or space but off-road parking is provided for one car. The tenant paid for the formation of the “drop kerb” to facilitate access. Parking in nearby roads is currently unrestricted and unregulated. There are well maintained gardens to front and rear. The tenant arranged for the construction of a glazed loggia at rear

at his own expense and this has been discounted in forming our opinion of rental value.

9. The main roof is pitched and covered with tiles. The main walls are of cavity construction with brick and rendered elevations. All windows have been replaced by the landlord with uPVC double glazed units with the exception of the kitchen window where a former external door (now covered) remains. External paintwork is in broadly serviceable condition.

10. The accommodation is currently arranged as:

First floor:

Landing, three bedrooms

Ground Floor:

Front living room, rear dining area leading to glazed rear addition (see above), kitchen leading to bathroom/WC

11. There is no central heating. Limited space heating is provided by independent units supplied by the tenant. Hot water is supplied by a wall mounted gas fired appliance in the kitchen and it was installed by the landlord.

12. The tenant has provided floor coverings, curtains and white goods.

13. The Tribunal formed the overall impression that the property was being reasonably well maintained for a property of this age and method of construction. During the inspection, the tenant took the opportunity of drawing attention to various matters including the fact that he has installed the fitted kitchen units and replaced various sections of defective fencing.

14. The Tribunal has not been provided with a copy of any Tenancy Agreement but the Application states that the tenancy began on 1st January 1987. As far as repairing and decorating liabilities are concerned, the Application to the Rent Officer states that the landlord is responsible for all repairs and external decorations and that the tenant is responsible for internal decorations and all repairs. 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 S11

Landlord and Tenant Act 1985.” The parties have not provided any further information concerning the apportionment of responsibility for repairs and decorations.

Representations

15. 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.
16. The tenant wrote a letter dated 18th December 2018 to the Rent Officer. This did not include any evidence of rental value but the following points are extracted:
 - (a) No improvements have been carried out by the landlord in the last two years
 - (b) He paid for and fitted new side gate and fencing this year
 - (c) He is still waiting for new windows to be fitted in the kitchen
 - (d) There is no central heating
17. Also included in the bundle are copies of an email exchange between the landlord and tenant. The following points are pertinent:

The only repairs carried out by Graingers in the last say 10 years have been partly fitted double glazing and a new front door... The outside has not been painted in at least 30 to 40 years, the paint is flaking off and tiles are broken on the roof back and front. The wiring is original since the house was built in the 1930's and there is continuous mould in the bathroom...
18. The landlord made written representations and referred to the following comparables. Each is a 3-bedroom semi-detached house but it is not stated whether or not the asking rents were achieved:

Wheeler Lane, Epsom

A letting has been agreed and the asking rent was £1,600 pcm.

Horsley Close, Epsom

The asking rent is £1,500 pcm.

Newton Wood Road, Ashted

This property has a garage. The asking rent is £1,895 pcm.

19. 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

20. 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
21. (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)
22. 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”)

23. 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

24. 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 supplied comparables and supplemented this with its own knowledge of general rent levels for this type of property and determined that the starting point should be £1,250 per month. This figure reflects the limitations of the property including the fact that the bathroom can only be approached through the kitchen. It also excludes any value attributable to the glazed rear addition which was constructed by the tenant.
25. 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 tenants and the need for work of modernisation and repair as the rental bid in present condition would differ from the rent if the property were in good, modernised condition. In order to reflect all the relevant considerations, the Tribunal has made

the following deductions from the starting point of £1,250 per month:

Carpets and curtains provided by tenant	£ 40.00
White goods provided by tenant	£ 30.00
Kitchen refurbished by tenant	£ 40.00
Lack of central heating	£ 60.00
Tenant responsible for internal decorations	£ 30.00
TOTAL DEDUCTIONS	£ 200 per month
Adjusted rent	£ 1,050 per month

26. We then considered the question of scarcity as referred to in paragraph 21(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.
27. 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.
28. 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.
29. We therefore determined that the uncapped Fair Rent is £1,050 per month exclusive of council tax and water rates.

30. 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 £1,102.50 per month.
31. As the adjusted rent is below the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £1,050 per month is registered as the fair rent with effect from Tuesday 30th April 2019
32. 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 £1,050 per month will be registered as the fair rent with effect from Tuesday 30th April 2019, being the date of the Tribunal's decision.

Chairman: R. A. Wilkey

Dated: Tuesday 30th April 2019

Appeals

33. 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.
34. 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.
35. 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.
36. 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.
37. 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.