



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

Case Reference : **CHI/23UC/F77/2019/0017**

Property : **2 Upton
Tetbury
Gloucestershire
GL8 8LP**

Applicant : **Northumberland & Durham
Property Trust**

Representative : **Grainger PLC**

Respondent : **Mr M Evans**

Representative : **None**

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

Tribunal Members : **Mr I R Perry FRICS
Mr S Hodges FRICS**

Date of Inspection : **3rd June 2019**

Date of Decision : **3rd June 2019**

REASONS FOR DECISION

Summary of Decision

On 3rd June 2019 the Tribunal determined a fair rent of £726.50 per calendar month with effect from 3rd June 2019.

Background

1. On 11th January 2019 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £778.20 per calendar month for the above property.
2. The rent was previously registered on the 3rd March 2017 at £648.50 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 15th February 2019 at a figure of £695 per calendar month with effect from the 10th April 2019.
4. By a letter dated 29th March 2019 the Landlord's Agent objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal Property Chamber (Residential Property) formerly the Rent Assessment Committee.

Inspection

5. The Tribunal inspected the property on the 3rd June 2019. Mr Evans was present and the Landlord's Agent was represented by Mr B Tucker.
6. The property is a semi-detached house built in 1956 of reconstructed Cotswold stone elevations beneath a pitched and tiled roof, within a small row of mixed properties about 1.5 miles north from the centre of Tetbury where there is a range of shopping facilities and local schools.
7. The accommodation at ground level includes a porch and hall giving access to a galley kitchen and sitting room with open fire. There is a dining room off the kitchen and a workshop, wood store and cloakroom.
8. Stairs rise from the hallway to a landing giving access to two double bedrooms, a single bedroom and a bathroom with WC.
9. Outside there are large gardens to front and rear, there is on-street parking and the property backs onto open farmland. The property has a gas-fired central heating system and aluminium double-glazed windows.
10. The kitchen fittings are very dated, the double-glazing units are failing but the property is otherwise generally in reasonable order.
11. The carpets curtains and white goods are provided by the Tenant. Mr Evans had also renewed some paths and repaired boundary walls.

Evidence and representations

12. Both parties had made written representations to the Tribunal which had been copied to both parties.
13. The submission from the Landlord's Agent also included evidence of comparable properties in the general area which were being marketed through letting agents in that area.
14. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values in determining the rent.

The Law

15. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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.
16. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasised
 - (a) that 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) that 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).
17. The Tribunal also has to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 where applicable. Most objections and determinations of registered rents are now subject to the Order, which limits the amount of rent that can be charged by linking increases to the Retail Price Index. It is the duty of the Property Tribunal to arrive at a fair rent under section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules of the Order. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rent for the subject property.

Valuation

18. 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 in the condition that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in the area of North Gloucestershire. Having done so it concluded that such a likely market rent would be £850 per calendar month.
19. However, the property was not let in a condition considered usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £850 per calendar month particularly to reflect the condition and the fact that the carpets, curtains and white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
20. The Tribunal therefore considered that this required a total deduction of £120 per month made up as follows:
- | | |
|-----------------------------------|-------------|
| Provision of Carpets and curtains | £20 |
| Provision of white goods | £10 |
| Dated and limited kitchen | £80 |
| Failing window units | £10 |
| TOTAL | <u>£120</u> |
21. The Tribunal did not consider that there was any substantial scarcity element in the area of North Gloucestershire.

Decision

22. Having made the adjustments indicated above the fair rent initially determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £730 per calendar month.
23. The Section 70 Fair Rent determined by the Committee is above the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly we determine that the lower sum of £726.50 per calendar month is registered as the fair rent with effect from 3rd June 2019.

Accordingly the sum of £726.50 per month will be registered as the fair rent with effect from the 3rd June 2019 this being the date of the Tribunal's decision.

Chairman: I R Perry FRICS

Dated: 3 June 2019

Appeals

24. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
25. 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.
26. 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.
27. 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.

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 take 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 the permission.