



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

Case Reference : **CHI/23UB/F77/2019/0018**

Property : **6 Redgrove Cottages
Hatherley Lane
Cheltenham
Gloucestershire
GL51 6SH**

Applicant : **Carbury Investments Ltd**

Representative : **Carters Property Management Ltd**

Respondent : **Mr J Bowen**

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 and Hearing : **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 £65 per week with effect from 3rd June 2019.

Background

1. On 29th January 2019 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £85 per week for the above property. This would equate to £368.33 per calendar month.
2. The rent was previously registered on the 30th June 2016 at £64 per week following a determination by the Rent Officer. This equates to £277.33 per calendar month.
3. The rent was registered by the Rent Officer on the 1st March 2019 at a figure of £65 per week with effect from the 8th July 2016. This equates to a figure of £281.66 per calendar month.
4. By a letter dated 11th 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 Bowen was present but neither the Landlord nor Landlord's Agent was present.
6. The property is a Grade II listed semi-detached house built in 1857 of 9" solid brick walls beneath a plain tiled roof. It has some ornate features to mouldings around the windows, feature ridge tiles and shaped fascias and bargeboards.
7. The property is situated in a small cul-de-sac of similar properties on the western side of Cheltenham, close to a large roundabout, opposite a park and ride car park and adjoining a drive-through KFC hot food outlet.
8. There is a Morrisons food store nearby and frequent buses to the town centre about 2 miles away.
9. The accommodation includes a small dining hall, kitchen and living room at ground floor level. Stairs rise from the hall to the first floor landing with access to a double bedroom, small single bedroom and bathroom with WC. airing cupboard and lagged hot water cylinder with electric immersion heater.
10. Outside there are gardens on 3 sides with a tarmac driveway, garage, garden store and workshop. Mains water electricity and drainage are all connected. Heating is from electric convector radiators provided by Mr Bowen who has also installed secondary double glazing.

11. Mr Bowen explained to the Tribunal that he had moved to the property in 1962 as an employee of the Dowty group who owned it at that time.
12. Since then he had carried out a number of improvements which included the removal of an internal wall to form the present kitchen, plastering what were bare brick walls in the kitchen and hall, providing the kitchen units, replacing an old Belfast sink, tiling the bathroom, installing secondary double glazing, installing the electric heaters, damp-proofing the sitting room floor, landscaping the gardens including the tarmac driveway and building the garage and garden store.
13. Internally the carpets curtains and white goods are all provided by Mr Bowen.
14. Internally the property had been maintained in reasonable order by Mr Bowen but rising damp has necessitated removal of the lower plaster in the dining hall. Penetrating damp is also evident at various points throughout the house. External decorations are in poor condition with wood rot affecting some fascias and barge boards. Rainwater pipes are rusty and the external surfaces of doors, windows and fascia boards need redecorating.
15. The staircase stringer has rotted away and the stairs are supported by jacks.

Evidence and representations

16. Both parties had made written representations to the Tribunal which had been copied to both parties.
17. A hearing was held on 3rd June 2019 at Gloucester and Cheltenham Court commencing at 12.45. Mr Bowen reiterated the representations that he had made in writing and at the earlier inspection. The Landlord was not present or represented.
18. The submission from the Landlord's Agent also included evidence of comparable properties in the same road which are currently let on Assured Shorthold Tenancies.
19. 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

20. 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.

21. 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).

22. 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

23. 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 £560 per calendar month.

24. 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 £560 per calendar month particularly to reflect the condition, the fact that the carpets, curtains and white goods were all provided by the Tenant and the improvements that Mr Bowen had made to the property.

25. The Tribunal therefore considered that this required a total deduction of £280 per month made up as follows:

Lack of central heating	£60
Reconfiguration and provision of Kitchen with new built-in cupboards	£100
Provision of Carpets, curtains and white goods	£30
Disrepair- dampness and dangerous staircase	£50

Provision of secondary double glazing	£20
Provision of garage and garden store	<u>£20</u>
TOTAL	£280

26. The Tribunal did not consider that there was any substantial scarcity element in the area of North Gloucestershire.

Decision

27. 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 £280 per calendar month equating to £65 per week.

28. This is the same figure as registered by the Rent officer in March 2019.

29. The Section 70 Fair Rent determined by the Committee is below 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 that rent limit has no effect

Accordingly the sum of £65 per week 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

30. 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.

31. 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.

32. 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.

33. 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.