



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

Case Reference : **CHI/24UC/F77/2019/0022**

Property : **Ashenwood, Punsholt Lane
West Tisted
Alresford
Hants SO24 0HJ**

Type of Application : **Determination of a fair rent:
Rent Act 1977**

**Date &
Venue of Hearing** : **09 July 2019
Havant Justice Centre**

Date of Decision : **09 July 2019**

Tribunal Members : **Mr B H R Simms FRICS (Valuer Chairman)
Mrs J E S Herrington (Lay Member)**

REASONS FOR THE DECISION

Background

1. On 07 February 2019 the landlord made an application to register the rent of the property at £936.00 per calendar month (“pcm”).
2. Following a consultation on 02 April at which both parties were represented the Rent Officer, on 08 April 2019, registered the rent at £875.00 pcm exclusive of rates with effect from the same date.
3. On 29 April 2019 the landlord’s agent objected and the matter was referred to the First Tier Tribunal (Property Chamber). Directions were issued dated 28 May 2019 and the Tenant responded and requesting an oral hearing.
4. The Landlord made written representations in response to Directions and the Tenant made a written response.
5. A Hearing was held on 09 July 2019 at Havant Justice Centre. The Tenant Mr J Norris represented himself accompanied by Mrs Norris and Mr Eric Parker MRICS of Savills represented the Landlord, R S Hill & Sons.

Inspection

6. On 09 July 2019 the Tribunal inspected the property accompanied by the Tenant, his wife and Mr Eric Parker of Savills the Landlord’s Agent.
7. The property is a three bedroom semi-detached house probably constructed in the 1940s of brick under a pitched, tile-covered roof. It was found to be generally in reasonable condition for its age but internally there are signs of dampness around window frames, some cracks to the ceilings and walls with some ceiling and chimney breast staining. The windows are replacement plastic double-glazed units set into the existing concrete surrounds. The surrounds and cills are in need of redecoration. Central heating is supplied by an LPG boiler and water filled radiators. There is also a solid fuel stove in the kitchen and solid fuel fires in the living rooms which we understand are now disused.
8. The kitchen has been re-fitted by the Tenant except for the sink. The bathroom fittings are dated.
9. There are well-kept gardens on three sides with farmland to the rear and surrounding the hamlet. There is no garage or official off-street parking although the grass verge serves as temporary parking. The street parking is unrestricted.
10. The accommodation comprises: Ground Floor: Entrance Hall, Dining Room, Living Room, Kitchen, Bathroom with bath, washbasin and high-level W.C., Rear passage with cupboard and boiler room. First Floor: Landing, Three Bedrooms, one with washbasin.

Tenancy

11. Until October 2016 Mr Norris was a full-time farm employee and the property was occupied as a Statutory Agricultural Tenancy under the Rent Agriculture Act 1976.

12. On 29 November 2016 the Rent Officer registered the rent at £775 per calendar month and the matter was referred to the First-tier Tribunal which determined the uncapped fair rent exclusive of Council Tax and water rates at £825.00 per calendar month with effect from 13 March 2017.
13. There is no tenancy agreement. The evidence at the hearing from both parties is that the Tenant is responsible only for keeping the property in tenantable repair in a similar manner to an Assured Tenancy and the Landlord is responsible for all other repairs in accordance with S. 11 of the '85 Act¹.
14. The Landlord supplies the oven but no white goods. Floor coverings and curtains are supplied by the Tenant.

The law

15. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard the personal circumstances of the Landlord or the Tenant and 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. 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).
17. For the purpose of determining the market rent, assured tenancy rents (market rents) are usually appropriate comparables. (These rents have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).
18. The Maximum Fair Rents Order² ("MFR") introduced statutory maximum (capping) limits to fair rents calculated using a formula based upon the previously registered rent, a standard addition and an inflation factor.

The Hearing and Representations

19. Mr Norris wrote to the Rent Officer by letter dated 18 February 2019 prior to the registration of rent and also responded to Savills' representations in accordance with the Tribunal's Directions.
20. When objecting to the registered rent Mr Parker supplied detailed written representations to the Rent Officer dated 29 April 2019 and then supplied written representations to the Tribunal dated 13 June 2019 in response to Directions.

¹ The Landlord and Tenant Act 1985

² The Rent Acts (Maximum Fair Rent) Order 1999 SI 1999 No. 6

21. Mr A Hill of the Landlord firm wrote to the Rent Officer prior to the consultation by letter dated 19 March explaining that the proposed increase in rent had been calculated using the MFR to arrive at £936.00 pcm. He also included property particulars and an email from Bourne Estate Agents.
22. At the Hearing both parties expanded on their representations and took questions from each other and the Tribunal members. The parties also had information from the Rent Service on its rental calculation. The tribunal summarises the representations here but have taken account of all written and oral material provided to it.
23. Mr Norris thinks that a rise proposed of £111.00 per month is too much and considers an increase of about £75 to a rent of £900.00 pcm is fair. He explains that he has worked on the farm for over 38 years and was born in the house, living there for 41 years or so.
24. Mr Parker considers that similar comparable lettings have been agreed recently [April 2019] at between £1,250 & £1,350. Estate agents' particulars of two properties are provided in West Tisted: Marlands, a three bedroom, three living room semi-detached house with kitchen and utility room, driveway and garage on the market and let from July 2018 at £1,250 pcm, and Trenleys a three bedroom, two living room, semi-detached house with a recently fitted kitchen and plenty of off-road parking on the market and let at £1,350 pcm from February 2019.
25. He submitted that as the earlier registration in March 2017 was at £825 pcm the Rent Officers current registered figure of £875 was too low.
26. He describes the property, although he didn't make an internal inspection prior to this Tribunal's visit, and his description is from estate records.
27. He strongly argues that the repairing obligations imposed by the '95 Act are not necessarily more stringent than in an Assured Shorthold Tenancy ("AST") agreement forming the basis of the market evidence submitted. He accepts that the internal finish with some other properties on the market may be better because of the shorter term occupations.
28. Mr Parker comments on the various elements of the Rent Officers valuation based on a market rent of £1,050 pcm set out in Ms. N.A. Wakelin's [the Rent Officer] email to him dated 16 April 2019 in response to a telephone call from him. This document was not seen by the Tenant until the Tribunal hearing. He refers to the two properties already mentioned but also others in the Froyle area some 10 miles North East: 1 Colthouse Lane a three bedroom semi-detached house with first floor bathroom, cloakroom, utility room and conservatory, garage and off street parking, let at £1,500 pcm from June 2019; 1 The Barracks a three bedroom listed cottage with off street parking and small ground floor bathroom let at £1,350 pcm in August 2018; 2 Home Farm Cottages a newly refurbished, period three bedroom semi-detached property with a downstairs bathroom, separate cloakroom, one reception room and large kitchen/breakfast room let at £1,200 pcm in March 2019; and 2 Ewelme Cottages a small two bedroom listed semi-detached, thatched property let at £1,150 in May 2019. He also took issue with the list of rents supplied by the Rent Service and what

appears to have been a mathematical average which is, in his view, unreliable. From all of this he concludes that a realistic open market rent should be £1,200 pcm.

29. Turning then to the various deductions Mr Parker summarises his views by taking a capital cost of providing the missing items and writing-off this cost over 20 years. This produces a deduction of £33.00 pcm for the dated kitchen and bathroom and £14.00 pcm for lack of carpets curtains and white goods although this is further reduced to £10.00 as the provision of these items in a new let is not 'the norm'.
30. He doesn't believe there should be a deduction for the Tenants decorating liability as it is no different to that for an AST. He accepts that there should be no deduction for scarcity. On this basis his opinion of a Fair Rent is £1,153 pcm which he caps using MFR at £924.00 per calendar month.
31. Mr Norris takes issue with the properties offered as comparables. He points out that Trenleys has plenty of off-road parking and is larger than the subject property. He emphasises the principle difference in construction where Ashenwood has concrete floors, which makes the house cold, whereas the others have timber floors. He doesn't think that the Froyle properties are in any way comparable to West Tisted. The locality is entirely different and 12 – 14 miles away. He believes that the landlord will have had to spend quite a lot on the other properties before they were let and nothing has been done to Ashenwood. Mr Norris says he has been living there for 40 odd years and has always maintained the garden and the property as best he can but he didn't know he could ask Mr Hill to carry out repairs. He has never asked for anything. The condition of the house should be taken into account.

Valuation

32. 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.
33. The Landlord's agent provided useful evidence of open market lettings but these were not directly comparable in every particular. We agreed with Mr Norris that the Froyle properties were sufficiently distant to be of little assistance. Having made adjustments for size layout and parking we also relied on the general information provided by the Rent Service and our own knowledge of general rent levels for this type of property in the locality. We determined that the starting point should be £1,175.00 per calendar month for a comparable house with limited parking but where the landlord supplies white goods .
34. However, the rent referred to in the above paragraph is on the basis of a modern open market letting of a property in good condition and the landlord supplies white goods, carpets and curtains. In this case the Tenant supplies his own white goods, carpets and curtains. We do not accept that it is not usual for landlord's to supply white goods. Although we note that this is the case with some of the comparables submitted but it is unclear whether a cooker is provided.
35. On the evidence heard and on the balance of probabilities we determine that this tenancy puts no greater responsibility on the Tenant than that on the tenant of an AST so no further adjustment is required.

36. The house is in only fair condition but the Tenant has supplied the kitchen fittings (except sink) and the bathroom fittings are outdated. A deduction must be made for these differences. Although we generally understand the deductions made in their calculation by the Landlord's agent the method is not one that is established. The Tribunal makes an adjustment using its own knowledge and experience to reflect the different rental bid that a hypothetical tenant would make when comparing the subject property to the rent payable for the hypothetical comparable which does not have the differences.

37. The Tribunal has therefore made the following deductions from the starting point of £1,175.00 per calendar month.

a. Lack of floor coverings & curtains	£60.00
b. Lack of white goods other than cooker	£40.00
c. General disrepair	£50.00
d. Concrete floors	£10.00
e. Lack of kitchen fittings	£70.00
f. Outdated sanitary fittings	£30.00

Total deductions £260.00 per month

38. We then considered the question of scarcity as referred to in paragraph 15 above. No evidence was submitted of a strong demand in the locality which could not be met by supply so we make no adjustment for scarcity.

39. We therefore determined that the uncapped Fair Rent is £915.00 per calendar month exclusive of council tax and water rates.

40. As this amount is below the rent correctly calculated in accordance with the Maximum Fair Rent Order at £927.50 details of which are shown on the rear of the Decision Notice of today's date we determine that the sum of **£915.00 per calendar month** is registered as the fair rent with effect from **09 July 2019** the date of this determination.

Chairman: B H R Simms FRICS

Date: 09 July 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.