



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

Case Reference : CAM/42UB/F77/2019/0013

Property : 4 Chestnut Terrace, Hall Street, Long Melford
CO10 9JE

Tenant : Mr L G Cracknell

Landlord : Northumberland and Durham Property Trust
Ltd

Type of Application : Determination of rent under Rent Act 1977

Tribunal Members : Judith Lancaster Chairman
Gerard Smith MRICS FAAV Valuer Member

Date of Decision : 14 June 2019

STATEMENT OF REASONS

DECISION

The Tribunal determined a Fair Rent of £137.50 per week.

THE PREMISES:

The Property is a mid-terrace period two-storey house, built of brick and tile, located on the High Street in a very popular village. There is no front garden, and a thin off-set rear garden, with no fencing or clear boundary with the adjoining property, a shed belonging to the Tenant, and a pedestrian right of access. There is no off-street parking. The external condition is satisfactory.

2. The accommodation consists of a sitting room, dining room, small kitchen leading directly into small conservatory on the ground floor, with steep stairs to a small landing, off which is 1 double bedroom, and a good-sized bath/WC, and further steep stairs up to a double attic bedroom. There is gas central heating, but not in the attic bedroom. There is a modern fitted kitchen, but the bathroom fittings are dated. The Tribunal noted that the Landlord has provided no furniture, carpets, curtains or white goods. The internal condition is generally satisfactory, apart from as noted above.

THE TENANCY

3. The Tenancy started in 1950, and the Landlord's repairing obligations are as under section 11 of the Landlord and Tenant Act 1985.

THE APPEAL

4. The Rent Officer registered a Fair Rent capped at £108.50 per week on 6/3/19, effective from that date. The uncapped figure was £123.00 per week. By letter dated 29 March 2019 the Landlord appealed. Neither party requested a hearing, and only the Landlord submitted written representations.

THE LANDLORD'S CASE

5. The Main points of the Landlord's case may be summarised as follows:

- a) the property is situated in a conservation area, in a picturesque and desirable village, and is well-served by public transport, with good road links to A11/M11 and A14 and a railway station in Sudbury;
- b) the Property is in good condition, well-maintained and without disrepair, though not fully modernised;
- c) since the last rent registration the Landlord has improved the property with external repairs and redecoration, including chimney stack and roof repairs, demolition and rebuilding of the kitchen conservatory extension, and has installed a new kitchen;
- d) the Tribunal's attention was drawn to specific case law, giving guidance as to how to fulfil the Tribunal's obligations, and the Tribunal was requested to follow the guidance in assessing a rent and taking account of all the relevant criteria;
- e) comparable rent evidence was submitted
- f) there is a good supply of rented accommodation available within a reasonable area and therefore little evidence of scarcity affecting rental values;
- g) the Rent officer's assessment of the uncapped rent, £123.00 pw, generally endorses the Landlord's application for £135.00 pw. The reason for the Landlord's objection is that the Landlord does not believe the rent should have been capped. The Tribunal was requested to ensure that the provisions of the Rent Acts (Maximum Fair Rent) Order 1999/Section 2 Maximum Fair rent Paragraph (7) be applied correctly in this case.

THE LAW

6. Attached to this Statement of Reasons is a resumé of the law as applied by the Tribunal. It forms an integral part of the Reasons of the Tribunal.

THE DECISION

7. The Tribunal noted the representations made by the Landlord.

8. The assessment of a Fair Rent starts with an assessment of the open market rent. The Tribunal noted the evidence as to comparable rents provided by the Landlord, particularly 5, Chestnut Terrace, which appeared from the exterior to be very similar to the Property, is also owned by the Landlord, and which the Landlord stated was directly comparable to the Property, and currently let on an assured shorthold tenancy at £160.00 pw. The Tribunal also relied on the members' knowledge and experience of open market rents in the area. It is the Tribunal's view that the open market rent for a similar property, in good condition with modern facilities, carpets, curtains and some white goods, and taking into account the very steep internal stairs and off-set garden, would be £675.00 per calendar month.

9. The Property has to be valued on the basis of the facilities currently provided, as set out above, and without carpets, curtains or white goods, and the Tribunal decided to make the deduction set out in the summary below to reflect those matters. It should be noted that this cannot be a simple arithmetical calculation but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

10. As to scarcity, the Tribunal decided that there is no substantial scarcity of 'similar dwelling houses in the locality' available for letting and a deduction would not be made to reflect this. The matters taken into account by the Tribunal were;

- a. the Tribunal interpreted the "locality" for scarcity purposes as being south Suffolk/north Essex ie a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent;
- b. the members of the Tribunal have many years of experience of the residential letting market between them and that experience leads them to the view that demand does not substantially exceed supply for similar properties in the locality defined above.

SUMMARY

Open market rent for similar property in good condition with modern facilities	£675.00 pcm
Less:- Global deduction for condition and lack of modern facilities, carpets etc.	£ 80.00 pcm
Open market rent for subject property	£595.00 pcm

This equates to £137.50 per week.

11. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 must then be considered. Paragraph 2(7) of the Order provides that capping does not apply 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."

12. The exercise that must be carried out is to assess the amount by which the new Fair Rent (£137.50 pw) exceeds the previous registered rent (£94.00 pw) wholly as a result of relevant Landlord's works carried out since the last rent registration. If that amount is at least 15% of the previously registered rent (i.e. £14.10 pw in this case) then capping will not apply.

13. The Tribunal assessed that in this case that the amount attributable to the Landlord's works, as set out above, is more than £14.10 per month. As a result, the Order does not apply, and the Tribunal's Fair Rent of £137.50 pw applies. It should be noted that this is not the figure that the Landlord must charge, but the maximum the Landlord can charge.

14. The Tribunal therefore determined a Fair Rent of £137.50 per week.

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Judge Lancaster

Caution: The Tribunal inspected the subject property for the purpose of reaching a decision. Such inspection is not a structural survey and only takes a few minutes. Any comments about the condition of the property in this Statement of Reasons are made as a result of casual observation rather than a detailed inspection. Please do not rely upon such comments as a guide to the structural condition of the property.

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

