



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

Case Reference : **CHI/19UJ/F77/2019/0038**

Property : **99 Portland Road, Weymouth,
Dorset DT4 9BG**

Type of Application : **Decision in relation to Rent Act
1977**

Date of Decision : **10 September 2019**

Reasons for the decision

Background

1. The landlord made an application to register the rent of the property at £160 per week.
2. On 27 June 2019 the Rent Officer registered the rent at £135.50 per week exclusive of rates with effect from 19 July 2019. The uncapped rent was stated to be £168 per week.
3. The landlord objected in a letter dated 5 July 2019 on the grounds that the rent was based on the previous Tribunal decision, in particularly the reference to the rent being determined in accordance with section 70 of the Rent Act 1977 and that there was no tenancy agreement. The matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal made standard directions on 24 July 2019 requiring the landlord to send to the tenant and to the tribunal a written statement as to their assessment of the rent and for the tenant to respond. The landlord provided letters from the lettings manager of Wilson Tominey Ltd dated 5 August 2019 giving estimates of £725 per month for No 99A and £700 per month for No 99. Also attached were brief details of

flats either let or available taken from Rightmove at rents between £650 and £795 per month. The landlords indicated that they did not wish to attend the inspection but required an oral hearing.

5. There was no written response from the tenant.

Inspection

6. We inspected the property in the company of the tenant Miss Wendy Paul. As advised, the landlord did not attend. We found the property to be a purpose-built ground floor flat forming the lower part of a detached two storey stone-built property giving the appearance of a detached house.
7. The accommodation has been fully described in the Tribunal's previous decisions but briefly comprises; living room, dining room, conservatory, 1 double and 1 single bedrooms, galley kitchen, bathroom, separate WC and shared gardens front and rear.
8. In the front living room we noted the ill-fitting windows with damp penetration in one reveal and the tenant's gas fire. In the single bedroom the fan light did not open as did one of the casements in the double bedroom. The front door was ill fitting.
9. The boiler was inconveniently situated in the WC compartment and the very small kitchen was unfitted except for a sink unit. Central heating had been provided under the Warm Front scheme although inexplicably there was no radiator in the living room.
10. The internal decorations and gardens were well kept by the tenant.

Hearing

11. The hearing was attended by Mr and Mrs Wright.
12. The Tribunal explained that the property was subject to the Rent Acts (Maximum Fair Rent) Order 1999 (the MFR) and as such both the Rent Officer and the Tribunal were bound by the terms of that order. The Tribunal explained that broadly speaking the increase was limited to the increase in the RPI since the last registration plus a small addition. Each of the previous determinations by both Rent Officer and Tribunal had been similarly affected and in each case the rental value decided had been reduced due to the MFR.
13. The Tribunal accepted that the terms of the tenancy were not in writing and therefore were unclear as to whether the Rent Officer's assertion that the tenant was responsible for the internal decorations was correct.

14. Mr Wright said that he had not been aware that the property was subject to Rent Registration when he had bought the property and had not understood that the rent was subject to a “cap”. He said that without a proper rent he was unable to spend money on such repairs as replacing the faulty windows.
15. He said that he now realised that this appeal and those held previously were, in his words a “waste of time”.

The law

16. 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 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.
17. Case law informs the Tribunal;
 - 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).

Valuation

18. Thus, 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. In this case the evidence provided by the landlord tended to support that of the Rent Officer and the Tribunal therefore confirmed the Rent Officer's starting point of £185 per week.
19. However, the rent referred to in the above paragraph is on the basis of a modern open market letting with where the tenant has no liability to carry out repairs or decorations, has central heating and the landlord supplies white goods, carpets and curtains. In this case the Tenant supplies white goods, carpets and curtains, the bathroom and kitchen are outdated and there is no landlord's heating in the front living room.

20. In making its own adjustments to reflect the lower bid a prospective tenant would make to reflect the differences between the property in a modern lettable state and that as provided by the landlord we make a deduction of approximately 10% and confirm the Rent Officer's uncapped rent of £168.00 per week.
21. We then considered the question of scarcity as referred to in paragraph 17a above and determined that there was none in this area of Dorset .
22. We therefore determined that the uncapped Fair Rent is £168.00 per week exclusive of council tax and water rates.
23. As this amount is above the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice **we determine that the lower sum of £135.50 per week** is registered as the fair rent with effect from today's date.

D Banfield FRICS (Chairman)
M J F Donaldson FRICS MCI Arb MAE
10 September 2019

1. 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. 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.
2. 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.
3. 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.