



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

**Case Reference** : **CHI/43UD/F77/2019/0042**

**Property** : **34 Acacia Road  
Guildford  
Surrey  
GU1 1HL**

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

**Date of Decision** : **23 October 2019**

**Tenant** : **Mrs T F May**

**Landlord** : **Mrs G A Hester**

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**REASONS FOR THE DECISION**

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**Background**

1. On 03 June 2019 the Landlord made an application to register the rent of the property at £820.00 per calendar month in place of the existing rent stated by the Landlord to be £602.00 per calendar month (*the rent was previously registered at £139.00 per week or £602.33 per calendar month*).
2. On 17 July 2019 the Rent Officer registered the rent at £820.00 per calendar month exclusive of rates with effect from the same date.
3. The Tenant objected to the rent registered and the Rent Officer referred the case to the First Tier Tribunal (Property Chamber). Directions for the conduct of the case were issued to the parties dated 23 August 2019.
4. The Tenant did not respond to the Directions. The Landlord made brief representations by letter dated 01 September 2019 which was circulated to the Tenant.

5. The Directions gave notice that the matter would be determined on the papers without a hearing unless a party objects. Neither party requested an oral hearing within the time allotted.

## **Inspection**

6. On 23 October 2019 the Tribunal members inspected the property accompanied by the Tenant, the Landlord was not present or represented.
7. The property is a two bedroom Victorian semi-detached house built of brick under a pitched, tile-covered roof. There is a small garden at the front leading to a narrow access passage between the two houses. There is a larger garden to the rear with the Tenant's greenhouse. The house was in satisfactory condition for its age with replacement uPVC double glazed windows and modern external doors. There is no central heating but the Tenant has provided some electric storage heaters. The kitchen and bathroom are not fitted to a modern standard. The cellar is damp and part of the ceiling has collapsed.
8. The accommodation comprises: Ground Floor: Entrance Hall; Two Living Rooms; Kitchen with stainless steel sink worktops and cupboards. First Floor: Small Landing; Two Bedrooms; Bathroom (leading from rear bedroom) with bath, washbasin and W.C. Cellar: Leading from the hall are steep stairs to a single cellar room.

## **Representations**

9. In her letter to the Rent Officer dated 30 July 2019 Mrs C Lusty, writing on behalf of her mother the Tenant, expressed shock and distress in reaction to the proposed increase in rent from £602.00 to £820.00 per calendar month. It had been explained to her by the Landlord's representative that the new rent had not been "capped". The reason for this was that the replacement windows had taken the rental for the property outside the capping provisions. Mrs Lusty explained that if her mother had known that the replacement windows would have increased the rent to this extent she would have declined the offer of new windows.
10. Mrs Lusty then explained that her mother was 87 years old, had lived in the house since 1960s, she doesn't receive any housing benefit and the state pension would not fund this hefty 36.21% increase.
11. The Landlord says she has looked at similar properties in GU1 and the rents for these are in excess of £1,100.00. She confirms that there is no *[written]* tenancy agreement but there are no service charges and the tenant is responsible for interior decoration. She doesn't think that the rent registered is excessive for Mrs May and her son to be paying.

## **The law**

12. 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 of the Tenant and the effect on the rental value of the property of:  
(a) any relevant tenant's improvements and

- (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy.
13. 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).
  14. 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).
  15. The Rent Acts (Maximum Fair Rents) Order 1999<sup>1</sup> ("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. Where, because of a change in the condition of the dwelling as a result of repairs or improvements carried out by the landlord, the rent determined in response to an application for registration, exceeds by at least 15% the previous rent registered or confirmed, capping is not applied to the rent. The Rent Officer believed that in this case the 15% limit was exceeded so he removed the rent from capping.

## **Valuation**

16. 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.
17. Neither party provided any rental evidence of comparable properties or a formal opinion of rental value. We relied on the information provided by the rent service and also our own knowledge of general rent levels for this type of property in the locality. Taking into account the narrow access passage and the inconvenient layout with the bathroom leading via the second bedroom, we determined that the starting point should be £1,050.00 per calendar month.
18. However, the rent referred to in the above paragraph is on the basis of a modern open market letting of a centrally heated property where the tenant has no liability to carry out repairs or decorations and the landlord supplies white goods, carpets and curtains.
19. In this case the Tenant supplies her own white goods, carpets and curtains and there is no central heating. The terms of this tenancy also require the tenant to carry out internal decorations. A deduction must be made for these differences.
20. The Tribunal has therefore made deductions from the starting point of £1,050.00 per calendar month as follows:

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<sup>1</sup> The Rent Acts (Maximum Fair Rent) Order 1999 SI 1999 No. 6

a. Onerous Tenant's decorating obligations	£20.00
b. Lack of Landlord's carpets, curtains and floor coverings	£50.00
c. Lack of Landlord's white goods	£20.00
d. Dated bathroom fittings	£20.00
e. Dated kitchen fittings	£40.00
f. Lack of central heating	£60.00

Total deductions £210.00 per calendar month

21. These are the Tribunal's opinion of the reduced rental bid that would be made by a hypothetical tenant when allowing for the deficiencies in this property when compared to a modern open market letting in the locality.
22. We then considered the question of scarcity as referred to in paragraph 13 above. There is no evidence of anything other than a balance of supply and demand in this locality so we conclude that there should be no adjustment for scarcity.
23. We therefore determined that the uncapped Fair Rent is £840.00 per calendar month (£1,050.00 less £210.00).
24. We then turned to the question of capping. In order to assess whether the MFR provisions apply we have to first assess the current uncapped rent taking into account the Landlord's works, this is our valuation summarised in paragraph 23 above at £840.00 per calendar month.
25. Neither the Landlord nor the Tenant addressed the Tribunal on the question of repairs or improvements carried out since the previous registration and their effect on MFR. Both parties mentioned that since the last registration the Landlord had replaced the windows and doors with modern replacement plastic units. We were not told the condition of the windows or doors prior to their replacement but we expect they were wooden sash windows and timber doors in poor condition and in need of replacement. Doing the best we could on this assumption we have assessed the current uncapped rent excluding Landlord's works at £800.00 per calendar month.
26. The difference between these two figures £840.00 less £800.00 is £40.00 per calendar month and this is the amount of rent we attribute to the Landlord's works. The previously registered rent was £602.33 per calendar month (£139.00 per week). Having regard to the MFR exemption (see paragraph 15 above) 15% of this previous figure is £90.35. Accordingly this amount does NOT exceed, by at least 15%, the previous rent registered so the rent for this property is NOT removed from capping and MFR applies.
27. As the uncapped rent of £840.00 exceeds the maximum fair rent calculated in accordance with MFR, details of which are shown on the rear of the Decision Notice, we determine that the lower sum of **£702.50 per calendar month** is registered as the fair rent with effect from **23 October 2019**.

Chairman: B H R Simms

Date: 23 October 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.