



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

**Case Reference** : **CHI/43UL/F77/2019/0059**

**Property** : **4 Canfold Cottages, Bookhurst Road,  
Cranleigh, Surrey GU6 7DR**

**Landlord** : **Northumberland and Durham Property  
Trust Ltd.**

**Represented by** : **Grainger Plc**

**Tenant** : **Mr. John Buckman**

**Type of Application** : **Rent Act 1977 (“the Act”) Determination  
by a First Tier Tribunal of the fair rent  
of a property following an objection to  
the rent registered by the Rent Officer.**

**Tribunal Members** : **Mr. R.A. Wilkey FRICS (Valuer Chairman)  
Mr. N. I. Robinson FRICS (Valuer Member)**

**Date of Inspection** : **Monday 16<sup>th</sup> December 2019  
No hearing. Paper determination.**

**Date of Decision** : **Monday 16<sup>th</sup> December 2019**

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**DECISION AND REASONS**

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## **Background**

1. The landlord applied to the Rent Officer for registration of a fair rent of £252 per week for the property. The Tribunal's copy of the application is not signed or dated but the registration states that it was received on 13<sup>th</sup> August 2019. The Application further states that the landlord provides no services.
2. The previous registration by the Rent Officer on 11<sup>th</sup> September 2017 was £219 per week, effective from 29<sup>th</sup> October 2017. The amount of the uncapped rent was not stated on the register but there is a note that the bathroom was originally installed by the tenant.
3. On the 25<sup>th</sup> September 2019, the Rent Officer registered a fair rent of £228 per week, effective from 29<sup>th</sup> October 2019. The amount of the uncapped rent is not stated on the Register.
4. The Landlord objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal (Property Chamber) Residential Property.
5. Directions for the conduct of the matter were issued by the Tribunal Office on 28<sup>th</sup> October 2019 and, amongst other things, the parties were advised that the determination will be made on the written representations unless a request for an oral hearing is made within fourteen days
6. Neither party requested a hearing at which oral representations could be made.

## **Inspection**

7. The Tribunal Members inspected the property on Monday, 16 December 2019 in the company of the tenant, Mr. Buckman, and his wife. The landlord had been informed of the inspection but was not present or represented.
8. The property is a semi-detached house which was probably built in about 1935 and forms part of a small group of houses of similar age and style with frontage to a busy local through traffic route. The garage at the end of the

rear garden was provided by the tenant and has separate access. There are good size, well maintained gardens to front and rear.

9. The main roof is pitched and covered with tiles. The main walls are of cavity construction with brick elevations. Most windows have been replaced by the landlord with uPVC double glazed units.
10. The accommodation is briefly arranged as:

**First floor:**

Three bedrooms

**Ground Floor:**

Entrance hall, living room, dining room, kitchen leading to lobby and bathroom/WC. There is a utility area between the lobby and the rear garden.

11. Central heating and hot water are provided by a wall mounted gas fired boiler in the lobby and it was installed by the landlord about 6 years ago. The wiring was renewed by the landlord about two years ago. The tenant has provided floor coverings, curtains and white goods. Kitchen units were supplied and fitted by the tenant about 30 years ago.
12. The Tribunal has not been provided with a copy of any Tenancy Agreement but the Application states that the tenancy began “pre-1979”. As far as repairing and decorating liabilities are concerned, the Application to the Rent Officer states that the landlord is responsible for repairs and external decorations and that the tenant is responsible for internal decorations. The Rent Register confirms this allocation of liability for repairs, subject to S11 Landlord and Tenant Act 1985. The parties have not provided any further information concerning the apportionment of responsibility for repairs and decorations.

**Representations**

13. Neither party has made a request for a hearing. The Tribunal thus proceeded to make the determination based on the inspection and written representations, supplemented with its own knowledge and experience.
14. The tenant wrote an undated letter to the Rent Officer (Received on 21<sup>st</sup> August 2019). This did not include any evidence of rental value but the

following points are extracted:

- (a) Nothing has been done to the property since the last rise.
  - (b) We have replaced both kitchen and bathroom taps and still have leaky gutters, but we can live with that...
15. The landlord made written representations and referred to the following comparables. Each is a 3-bedroom semi-detached house within 3 miles of the subject property but it is not stated whether or not the asking rents were achieved.

Brackenwood, Cranleigh

Asking rent £1,450 pcm (equivalent to £334.62 per week).

Wykehurst Lane

Asking rent £1,500 pcm (equivalent to £346.15 per week).

Cranleigh

This property has an integral garage. Asking rent £1,500 pcm (equivalent to £346.15 per week).

16. The above is a summary of the points made by the parties and the tribunal has considered the whole of the contents of the above documents in making its decision.

**The law**

17. When determining a fair rent, the Committee, in accordance with section 79 of the Rent Act 1977, had regard to all the circumstances including the age, location and state of repair of the property. The Committee also disregarded the effect 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, on the rental value of the property
18. (a) 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) 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)

19. The Rent Acts (Maximum Fair rent) Order 1999 applies to all applications for registration of a fair rent (other than a first application for registration) made to the Rent Officer on or after 1 February 1999. Its effect is to place a “cap” on the permissible amount of the increase of a fair rent between one registration and the next by reference to the amount of the increase in the retail price index between the date of the two registrations plus 7.5% in the case of a first re-registration and 5% thereafter. The Committee must first determine a fair rent (“the uncapped rent”) and then consider whether the Order applies so as to limit the increase in the rent (“the capped rent”)
20. There are two principle exceptions. This is not the first registration so the relevant exception is contained in Art.2(7) of the 1999 Order and is as follows:

“This article does not apply in respect of a dwelling-house 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.”

The Tribunal has not been made aware of any relevant works carried out to the property by the Landlord since the last registration.

## **Valuation**

21. First of all, 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.

22. The tenant did not provide any comparable evidence of rental value. The information provided by the landlord is sparse. The attached extracts from the selling agent's particulars show poor copies of black and white photographs and limited additional information. The three properties mentioned are not directly comparable to the subject. The Cranleigh property is a more modern house with utility room, cloakroom & WC as well as a garage and parking for several cars. The Wykehurst Lane house has the benefit of an ensuite bathroom, a good size kitchen, garage (in a block) and a conservatory. The Brackenwood house has a cloakroom, conservatory, ensuite shower room/WC and allocated parking.
23. The methodology applied by the applicant is also confusing. The application to the Rent Officer was for the sum of £252 per week. However, the statement considers that "the open market rental value of 4 Canfold Cottages ... £346 per week fully modernised" It then proceeds to make various deductions amounting to £190 pcm (equivalent to £43.85 per week) resulting in an adjusted rent of £302 per week.
24. The tribunal had regard to the supplied comparables and supplemented this with its own knowledge of general rent levels for this type of property and determined that the starting point should be £276.92 per week. This figure ignores any value attributable to the garage which was supplied by the tenant.
25. However, this starting rent is on the basis of a letting in good, modernised condition. In this case, adjustment must be made to reflect the work carried out by the tenants and the internal decorating obligations as the rental bid in present condition would differ from the rent if the property were in good, modernised condition and let on an assured shorthold tenancy. In order to reflect all the relevant considerations, the Tribunal has made the following deductions from the starting point of £276.92 per week:

Carpets and curtains provided by tenant	£ 10.38
White goods provided by tenant	£ 4.62
Kitchen units supplied by tenant	£ 13.85
Bathroom fittings	£ 6.92
Tenant responsible for internal decorations	£ 9.23
TOTAL DEDUCTIONS	£45.50 pw
Adjusted rent	£232.42 pw say, £232.50 pw

26. We then considered the question of scarcity as referred to in paragraph 21(a) above. In the case of *Metropolitan property Holdings ltd. v Finegold (1975) 1 WLR 349*, Lord Widgery said “If the house has inherent amenities and advantages, by all means let them be reflected in the rent under subsection(1); but if the market rent would be influenced simply by the fact that in the locality there is a shortage, and in the locality rents are being forced up beyond the market figure then that element of market rent must not be included when the fair rent is being considered.” This statement highlights the distinction between increase in rents that results from the benefits of local amenities which is permitted under section 70(1) of the 1977 Act, and increases in rent that are caused by demand exceeding supply which is not permissible and regulated by section 70(2) of the 1977 Act.
27. The Tribunal is required to consider scarcity in respect of demand and supply in the context of a sizeable area so as to ensure that the benefits of local amenities are neutralised and also to give a fair appreciation of the trends of scarcity and their consequences. The Tribunal should only give a discount for scarcity if it is substantial.
28. The Tribunal has given the matter careful thought and concludes that there is no substantial scarcity element in an area within a radius of approximately 30 miles of the subject property. Accordingly, no further deduction was made for scarcity.
29. We therefore determined that the uncapped Fair Rent is £232.50 per week exclusive of council tax and water rates.
30. The Tribunal finds that by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that could have been registered in the

present case is the sum of £242.50 per week.

31. As the adjusted rent is below the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £232.50 per week is registered as the fair rent with effect from Monday, 16 December 2019
32. For information only, details of the rent calculated in accordance with the Maximum Fair Rent Order details are shown on the rear of the Decision

**Accordingly, the sum of £232.50 per week will be registered as the fair rent with effect from Monday, 16 December 2019, being the date of the Tribunal's decision.**

**Chairman: R. A. Wilkey**

**Dated: Monday 16<sup>th</sup> December 2019**



## **Appeals**

33. 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.
34. 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.
35. 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.
36. 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.
37. 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 make 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 permission.