



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

Case Reference : **CAM/11UF/F77/2019/0032**

Property : **5 York Road, Marlow, Buckinghamshire
SL7 2QB**

Applicant (Tenant) : **Mrs Maureen Middleton**

Respondent (Landlord): **Mrs Judy Rayner**

Type of Application : **Determination of a fair rent under
Section 70 of the Rent Act 1977**

Tribunal Members : **Judge JR Morris
Mrs Wilcox BSc MRICS**

Date of Decision : **7th January 2020**

DECISION

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DECISION

1. The Fair Rent for the Property payable from 7th January 2020 is determined to be £160.00 per week which is the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £190.00 per week.

REASONS

THE PROPERTY

2. The Property is a two-storey mid terraced house of brick under a pitched slate roof. The windows are double glazed units in upvc sliding sash frames. There are upvc rainwater goods.

Accommodation

The front door opens directly into the front living room. The Property comprises on the ground floor two living rooms, between which are the stairs to the first floor and a kitchen. On the first floor there are two bedrooms and a bathroom. There are front and rear gardens. There is a shared access to the

side of the Property which gives access to the rear garden. There is a brick outhouse at the end of the garden and an outside w.c.

Services

The Property has mains electricity, gas, water and drainage. Space heating is by night storage heaters which were installed by the Tenant. Water heating is by an electric immersion heater.

Furnishing

The Property is let unfurnished.

Location

The Property is situated in a residential area on the edge of Marlow town centre.

THE TENANCY

3. The Tenancy is a statutory regulated weekly tenancy, which commenced on 1st January 1968. Being a tenancy for 7 years or less, section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations. The Tenant is responsible for internal decoration.

THE REFERRAL

4. The current rent is £144.00 per week registered on 31st August 2017 and effective from that date. The rent was capped the uncapped rent being £180.00 per week. The Landlord by a notice in the prescribed form received by the Valuation Office Agency on 19th August 2019 proposed a new rent of £165.00 per week. On 27th September 2019 the Rent Officer registered a rent of £159.00 per week effective from that date. The registered rent was a capped rent under the Rent Acts (Maximum Fair Rent) Order 1999 and the uncapped rent was £190.00 per week. On 9th October 2019 the Tenant referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.

THE INSPECTION

5. The Tribunal inspected the Property in the presence of the Tenant and the Landlord and found it as described above.
6. Externally the Property is in fair condition.
7. Internally there is, what appears to be, rising damp on the front wall both under the bay window and in the corner by the front door. The damp has caused damage to the carpet and there is mould growth on the curtains and is odorous. The kitchen is basic and dated and there are relatively few electrical sockets by modern standards. The walls are painted brick. The Tribunal was not able to view the bathroom and w.c. as it was occupied at the time of the inspection. Nevertheless, the parties said that the bath had been replaced about 15 years ago although the w.c. and wash hand basin were older. There

was a hand held shower over the bath controlled by the taps. The bathroom is off the rear bedroom making access inconvenient by modern standards.

THE LAW

8. The law applicable to this application is contained in the Rent Act 1977.

REPRESENTATIONS

9. In written representations the Tenant stated that her objection to the increase is that the house was damp. She said that for the last two years there had been a damp patch in a corner of the sitting room now measuring 15 inches by 18 inches. There is a further damp patch under the bay window. She said that she had to deal with the mould in both of these places and that her curtains, carpets and decorations were ruined by it. In addition, she said there was an awful smell and it is unhealthy. She said that the Landlord had inspected the Property in July 2019 and she had hoped that the damp would be dealt with but nothing had been done.
10. The Landlord made no representations.

RENT ASSESSMENT

11. The Tribunal assessed the rent for the Property as at the day of the inspection pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances). The Tribunal took account of the relevant cases and legislation including *Spath Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24th May 1991.
12. The Tribunal is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market in the general area and as close to Property as can be found, taking into account the matters referred to above. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time.
13. The Tribunal is not able to take the personal circumstances of either part into consideration.
14. Neither party provided rental values of comparable properties, therefore the Tribunal used the knowledge and experience of its members. The Tribunal determined that the rent for the Property, taking into account its location and if it were in good condition with central heating, double-glazing, modern kitchen and bathroom with convenient layout, and let with carpets, curtains and white goods on an Assured Shorthold Tenancy on the same terms at the time of inspection would be £290.00 per week.

15. The Tribunal found that a deduction of £100.00 should be made in respect of the Property in its present condition to take account of the dated and basic kitchen and what appeared to be a relatively dated bathroom which was inconveniently placed by modern standards, the lack of central heating and of floor coverings, curtains and white goods, which would be provided in comparable properties. It also takes account of, what appears to be, rising damp in the sitting room. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

SCARCITY

16. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
17. That experience and consideration leads the Tribunal to the view that there is no substantial scarcity of "... similar dwelling houses in the locality...", in this case Buckinghamshire as at the day of the inspection, that are available for letting, and so no deduction is made to reflect this.

TRIBUNAL'S CALCULATIONS

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|-----|-----------------------|------------------|
| 18. | Market Rent: | £290.00 per week |
| | Less global deduction | <u>£100.00</u> |
| | | £190.00 per week |

19. The Tribunal therefore confirms the Rent Officer's uncapped rent.
20. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. The capped Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. The capped rent in this case is £160.00 per week, which is less than the Fair Rent assessed by the Tribunal and therefore the capped rent of £160.00 per week is to be registered.

FAIR RENT = £160.00 per week

Judge JR Morris

Caution: The Tribunal inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

APPENDIX - RIGHTS OF APPEAL

1. If a party wishes to appeal the 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.