



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

Case Reference : **CHI/19UH/F77/2019/0057**

Property : **Downcroft, Purlands Bridport Road,
Dorchester Dorset DT2 9DS**

Landlords : **Northumberland & Durham Property
Trust Ltd.**

Tenant : **Ms Joyce Lillian Lee.**

Date of Objection : **8 October 2019. Referred to First-tier
Tribunal by Valuation Office Agency 17
October 2019**

Type of Application : **Section 70 Rent Act 1977 (the Act)**

Tribunal : **Mr W H Gater FRICS MCI Arb (Chairman)

Mr M J F Donaldson FRICS MCI Arb MAE**

Date of inspection : **19th December 2019**

REASONS FOR DECISION

Background

1. On 12th July 2019 the Landlord made an application to register the rent of the property at £625.62 per calendar month. There are no services included in the tenancy.
2. On 3rd September 2019 the Rent Officer registered the rent at £552.50 per calendar month exclusive of rates, with effect from 1st October 2019. The last rent registered was £500.50 per calendar month effective from 1st October 2017.

3. On 8th October 2019 the Valuation Office Agency received an objection from Grainger Plc, acting for the Landlord, and the matter was referred to the First Tier Tribunal, Property Chamber on 17th October 2019.
4. Directions were issued by the Tribunal on 29 October 2019.

Inspection

5. On 19th December 2019 the Tribunal inspected the property accompanied by Ms Lee and her partner, Mr Nelson.
6. The property comprises a detached bungalow, believed to be built about 70 years ago.
7. It is situated in a rural location, sited amidst farmland approached up an unmade track off the A35 Bridport Road about 4 miles west of Dorchester. Access to the property is over a right of way across a farm track.
8. The bungalow is constructed of part rendered cavity brick/block walls under a pitched tiled roof. Windows and doors are recently installed modern PVCu double glazed units. Modern rainwater goods and fascia / soffits were added at the same time.
9. The accommodation comprises, in summary, two Reception rooms, Kitchen with walk in store cupboards off. Three Bedrooms, Bathroom. Separate WC.
10. The bungalow is surrounded by a large garden with parking space at the front.
11. There are various sheds and outbuildings which were provided by the Tenant and therefore excluded from rent assessment.
12. Mains electricity and water are understood to be connected. Drainage is to septic tank. There is no central heating. The Tenant has installed night storage heaters. Hot water is provided by the solid fuel Rayburn, (replaced by the Tenant some years ago but currently defective) and an electric immersion heater.
13. Improvements by the Tenant are described in more detail below. Any effect on rental value due to the improvements had been disregarded in the assessment of rent in accordance with the Act.
14. Whilst repairs and improvements have been undertaken by the Landlord there are defects such as dampness around internal chimney breast and a defective Rayburn. Externally the roof carries a heavy moss growth and rendering is cracked at the rear.

Tenancy

15. The tenancy commenced in 1969. No tenancy agreement. It therefore appears to be a statutory protected periodic tenancy. The Landlord is responsible for repairs and external decoration, the Tenant is responsible for internal decorations, subject to

the limitations set down in Section 11 of the Landlord and Tenant Act 1985 (the Landlords statutory repairing obligations).

16. The property was let unfurnished. The Tenant advises that carpets, curtains and white goods were not included on letting.

Submissions by the parties.

17. The tribunal examined the written submissions of the parties which are summarised below.

18. For the Landlord, Grainger plc made written submissions on condition and case law, (see below). They drew attention to recent repairs and improvements made by the Landlord. Since the last review they had installed full UPVC double glazing including new rainwater goods with soffits and fascia. Further works had been carried out to roof and chimney. Receipts were provided for window, soffit and rainwater system replacement, asbestos soffit removal and rafter end repairs totalling £15570.08

19. They referred to a comparable property in Grosvenor Road Dorchester and concluded that the market rental value of the property is £925 per calendar month (pcm). The requested rent of £625.62 pcm was therefore a reduction of £299.38 pcm, reflecting lack of a garage, adequate parking, central heating, floor coverings and white goods. It also adjusted for scarcity which must be disregarded under the Act. They submitted that a theoretical adjustment for these factors could be £60 pcm.

20. Written submissions from the Tenant indicated that the Grosvenor Road comparable referred to was up to date and therefore not comparable. She listed the following issues

Lack of garage and visitor parking

No access for emergency vehicles

Difficulty with access over a bridleway and right of way over fields

Scrap lorries and cars left around the bungalow encouraging vermin.

Lack of fitted kitchen and Rayburn.

Damage to the Rayburn and ceiling following replacement of the immersion heater by the Landlord.

Rainwater leaks around the chimney. Kitchen cupboards rendered unusable.

Dampness due to absence of heating and insulation, despite the installation of double glazing.

Improvements were listed as follows: bought and fitted Rayburn, tiled walls in Kitchen, Bathroom and toilet, replaced sink and taps, replaced bath and sink.

Plastered ceiling in kitchen bathroom and sitting room. Installed and bought wood burner in sitting room. Bought and installed small plug in storage heaters.

The Law

21. 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.
22. The three cases cited by the submissions for the Landlord give guidance on how a fair rent should be determined. The Tribunal has given due regard to those cases.
23. In particular, in *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Panel* [1999] QB 92 the Court of Appeal emphasised:
 - 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.)

The Tribunal's Deliberations

24. The Tribunal considered all the representations and information provided by the Landlord and Tenant.
25. 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. This rent must exclude the value of tenant's improvements noted above.
26. It did this by considering the evidence provided by the parties and by having regard to the Tribunal's own general knowledge of market rent levels in the Dorset area.
27. It found that the starting point should be in the region of £900 per Calendar month, and therefore adopted the Rent Officers starting rent at the same sum.
28. There are differences between the usual terms and condition for a letting at that rent and the circumstances of this letting. These need to be reflected in adjustments from the market rent which might be achieved with the property in usual condition.

- 29.Reductions were accordingly made from the market rent to reflect the circumstances of this letting as listed below.
- 30.Further the decorating liability under the subject tenancy is more onerous than in a typical market letting.
31. Whilst the Landlord has undertaken improvements and repairs there are still matters of disrepair and disabilities which adversely affect rental value. The tribunal deliberated on the condition of the property had the Tenant not undertaken repairs and improvements.
32. In the Tribunal's experience a prospective tenant would not go through a detailed exercise of deductions but would make an overall assessment of the level of allowance that would entice them to overlook the difference in circumstances and amenities as offered by the subject property when compared to the letting of a property as described in paragraph 25 above.
33. The Tribunal considers that to reflect these matters a deduction of 1/3rd or £300.00 per month should be made to the starting point market rent. This deduction reflects the following :-

Unmodernised kitchen and bathroom

No white goods, carpets or curtains

Defective heating

Disrepair and dampness

Access disability, lack of garage and poor parking.

Therefore £900 – 300. Fair rent not subject to Maximum Fair Rent limitation =£600 per month. See below.

Scarcity

34. The Tribunal then considered the question of scarcity.
35. Increases in rent that are caused by demand exceeding supply are regulated by section 70(2) of the 1977 Act and must be excluded in the assessment of a Fair Rent.
36. The Tribunal is required to consider scarcity in respect of demand and supply in the context of a sizeable area 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.
37. The matters taken into account by the Tribunal when assessing scarcity were as follows: -

38. The Tribunal interpreted the 'locality' for scarcity purposes as being the whole area of Dorset i.e. a sufficiently large area to eliminate the effect of any localised amenity which would tend to increase or decrease rent.
39. Local Authority and Housing Association waiting lists.
40. House prices which could be an indicator of increased availability of housing and a reduction in scarcity.
41. Submissions of the parties.
42. The members of the Tribunal have between them many years of experience of the residential letting market and that experience leads them to the view that there is currently no shortage of similar houses available to let in the locality defined above.
43. Accordingly, the Tribunal made no deduction for scarcity.

Maximum Fair Rent

44. This is the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice.
45. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent may be increased to a maximum 5% plus RPI since the last registration.
46. The only exception to this restriction is provided under paragraph 7 of the Order where a landlord carries out repairs or improvements which increase the rent by 15% or more of the previous registered rent. The tribunal determines that the recent Landlords repairs/ improvements have not increased the rental value above this threshold.
47. The rent to be registered is limited by the Fair Rent Acts (Maximum Fair Rent) Order 1999 because it is above the maximum fair rent that can be registered of £554.50 per calendar month prescribed by the Order (details are provided on the back of the decision form).
48. The Tribunal accordingly determines that the lower sum of £554.50 per calendar month as the fair rent with effect from 19th December 2019 being the date of the Tribunal's decision.



Chairman: W H Gater FRICS MCI Arb

Date: 19th December 2019

RIGHTS OF APPEAL

1. A person wishing to appeal this decision (on a point of law only) 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.
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

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