



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

**Case Reference** : **CHI/43UK/F77/2019/0068**

**Property** : **4 Welcomes Terrace, Godstone Road,  
Whyteleafe, Surrey CR3 0EA**

**Landlord** : **Mr. J. Muscat**

**Tenant** : **Mr. R. Osborne**

**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. K. Ridgeway MRICS (Valuer Member)**

**Date of Inspection** : **Friday 7 February 2020  
No hearing. Paper determination.**

**Date of Decision** : **Friday 7 February 2020**

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**DECISION AND REASONS**

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## **Background**

1. The landlord applied to the Rent Officer on 30<sup>th</sup> September 2019 for registration of a fair rent of £200 per week for the property. The Application states that the landlord provides no services.
2. The previous registration by the Rent Officer on 16<sup>th</sup> August 2017 was £197 per week, effective from 7<sup>th</sup> September 2017. The amount of the uncapped rent was stated on the register to be £200 per week. Following an appeal, the matter was referred to the First-Tier Tribunal which determined a rent of £170 per week on 30<sup>th</sup> October 2017, effective from the same date.
3. On the 6<sup>th</sup> November 2019, the Rent Officer registered a fair rent of £188.50 per week, effective from the same date. The amount of the uncapped rent is stated on the Register to be £195 per week.
4. The tenant 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 17<sup>th</sup> December 2019 and, amongst other things, the parties were advised that the determination will be made based on the inspection and 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 Friday, 7<sup>th</sup> February 2020 in the company of the tenant's wife, Mrs. Osborne. The landlord had been advised of the inspection but did not attend and was not represented.
8. The property is a mid-terrace, two storey house which was probably built over 100 years ago. There is no garage or space and the house has frontage to a busy local traffic route where parking is restricted. It is part of a mixed, established community within easy reach of local amenities.
9. The main roof is pitched and tiled. The elevations are painted brick with

solid bonding at the front and cement rendered and painted at rear. The Landlord installed replacement uPVC double glazed windows about 15 years ago. The Tribunal formed the impression that the property was being maintained in an indifferent manner.

10. The accommodation comprises two bedrooms and bathroom/WC on the first floor. On the ground floor there is a hall opening to a through living room and kitchen.
11. During the inspection, the Tribunal noted that several repairs are required to the inside and outside of the house. These included:
  - The radiators are not fitted with thermostatic controls and some of the radiators did not work.
  - The external door from the kitchen is in poor order and requires replacement
  - Dampness is affecting various parts of the property, including staining to walls in the kitchen. External rendering to this part of the property is cracked and off key.
  - Many of the windows do not open properly
  - Several light flexes are old. The tenant advised that the electrical installation has not been checked for many years but that there are currently no problems.
  - The rear soil pipe is not properly secured to the wall.
  - Fitted units in the kitchen are limited and dating.
12. Carpets, curtains and white goods have been supplied by the tenant. The Tenant has renewed wall and floor tiling in the bathroom. The ageing but broadly acceptable bathroom fittings were installed by the Landlord. Kitchen units are old and were installed by the Tenant to replace units that were described as “totally inadequate”.
13. The Tribunal has not been provided with a copy of any Tenancy Agreement but the Application states that the tenancy began in about 1965. 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**

14. 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.
15. Neither party made any written representations to the Tribunal.
16. The Tribunal has been provided with a copy of an undated letter (received by the Valuation Officer on 15<sup>th</sup> October 2019) from Mrs. T. D. Osborne. This states:
  - (a) The condition of the property has deteriorated since 2017
  - (b) “At the end of the Terrace a housing development of 165 apartments have been built with 60 less parking spaces required coupled with the double yellow lines has made parking near impossible”

### **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.”

## **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. In the absence of any evidence of rental value supplied by the parties, the tribunal relied on its own knowledge of general rent levels for this type of property and determined that the starting point should be £265 per week.
23. However, this starting rent is on the basis of a letting in good, modernised condition. In this case, adjustment must be made to reflect matters such as the items supplied by the tenant, the lack of modern amenities 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 £265 per week:

Carpets and curtains provided by tenant	£ 15
White goods provided by tenant	£ 10
Unmodernised kitchen	£ 15
Tenant's liability for internal decorations	£ 15
Outstanding items of disrepair	<u>£ 20</u>
TOTAL DEDUCTIONS	£ 75 week
Adjusted rent	£ 190 week

24. The Tribunal considers that there is no substantial scarcity element in the area of Surrey. Accordingly, no further deduction was made for scarcity.
25. We therefore determined that the uncapped Fair Rent is £190 per week exclusive of council tax and water rates.
26. 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 £189 per week.
27. As the adjusted rent is above the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £189 per week is registered as the fair rent with effect from Monday, 7<sup>th</sup> February 2020.
28. 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 £189 per week will be registered as the fair rent with effect from Monday, 7<sup>th</sup> February 2020, being the date of the Tribunal's decision.**

**Chairman: R. A. Wilkey**

**Dated: Friday 7<sup>th</sup> February 2020**

## **Appeals**

29. 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.
30. 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.
31. 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.
32. 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.
33. 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.