



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

Case reference : **CAM/42UE/F77/2020/0002**

Property : **2 Turnpike Cottages, Brockford,
Stowmarket, Suffolk IP14 5NS.**

Applicant : **Mr Andrew Scott**

Respondent : **Mrs M Paternoster**

Type of application : **Fair Rent registration under s.70
Rent Act 1977**

Tribunal member(s) : **Judge Stephen Evans
Mr Gerard Smith MRICS FAAV**

Date of inspection : **18 March 2020**

Date of decision : **23 March 2020**

DECISION

Decision of the Tribunal

The Tribunal determines a capped Fair Rent of £137 per week (£593.66 pcm) inclusive of £1 per week attributable to services.

The application

1. The Applicant Mr Andrew Scott seeks a determination pursuant to s.70 of the Rent Act 1977 of a Fair Rent.

The law applied

2. The basis of determination of a Fair Rent is set out in section 70 of the Rent Act 1977. It can fairly be summarised as market rent less “the statutory disregards” and “scarcity”. In practice this means that it is necessary to start with the market rent for a similar type of property but then make any relevant adjustments to reflect differences between that and the subject property, before adjusting for the disregards and then scarcity. (See e.g. *Spath Holme Ltd v Greater Manchester and Lancashire RAC (No1)* (1996) 28 HLR 107 CA; *Curtis v London FTT* [1998] 3 WLR 1427 CA and *Northumberland and Durham Property Trust Ltd v London FTT and Borkowski* (1999) 31 HLR 109 QBD).
3. Section 70(1) requires the Tribunal to have regard to the locality of the property and section 70(2) requires an assumption that there is no scarcity in the locality.
4. The Tribunal by the legislation has to disregard any improvement by the tenant unless it is in pursuance of the terms of the tenancy: s.70(3).
5. Fair rents are subject to a capping procedure under The Rent Acts (Maximum Fair Rent) Order 1999, which limits increases by a formula based on the proportional increase in the Retail Price Index since the previous registration. There are exemptions for first time registrations and where the rental value (as part of a fair rent) of repairs or improvements has resulted in an increase in a fair rent of at least 15% above the previous limit.

The property

6. The Tribunal inspected the property on 18th March 2020 in the presence of the Respondent tenant, Mrs M Paternoster. No representative from the Applicant landlord attended.
7. The property is a semi-detached thatched cottage, built before 1800. The property has a small garden to the front and a larger garden to the rear.
8. On the ground floor there is a cloak cupboard, a bathroom/ WC, a living room, a kitchen and an airing cupboard. On the first floor there are 3 bedrooms. On the top (attic) floor there are 2 eaves rooms with restricted head height.

The location

9. The property is located next to the A140 main artery between Ipswich and Norwich. However, the property benefits from having 1 Turnpike Cottages acting as a buffer to noise, as it is nearer the road. There are few amenities locally.

The tenancy

10. No tenancy agreement was provided to the Tribunal. On the information before us, the tenancy commenced on or about 24th June 1993. The landlord would therefore be subject to the implied repairing covenants of s.11 of the Landlord and Tenant Act 1985, and the tenant is responsible for minor internal repairs and internal decoration.
11. The last rent registered was £123.50pw on 6th September 2017.

The facilities

12. No carpets, curtains or white goods are provided by the landlord. The property has the benefit of central heating. The tenant has installed a log burner and liner to the chimney in the living room.
13. The bathroom has recently had tiling undertaken by the tenant on the walls above the original bath.
14. In addition, the Respondent has put down flooring in the hallway and bathroom, and carpets elsewhere.

The inspection

15. On the inspection Mrs Paternoster expressed concern that the wall behind the Stanley range cooker in the kitchen was damp. However, the Tribunal gained the impression (without a full survey) that this was caused by a lack of ventilation to the chimney. The Stanley cooker was not on at the time of inspection, which would provide a level of background heating to the area. In addition, a vent to the chimney space appeared blocked.
16. The Tribunal noted the exterior repairs and redecorations to windows and barge boards by the Applicant.

Representations

17. The materials before the Tribunal included a Fair Rent Valuation Sheet.
18. The Tribunal also considered Mrs Paternoster's representations dated 17th and 19th September 2019.
19. The landlord did not appear, nor was it represented. The Tribunal considered his letters dated 1st September 2019, 6th October 2019 and 10th

November 2019, plus the accompanying documents provided to the Rent Officer.

20. Mr Scott had provided rental values of what he considered comparable properties from a local Estate Agent. The only achieved rent was £800 pcm in Thorndon. He had a valuation letter from another. The Tribunal noted that one of the agents stated that in current condition a rental of £750-800pcm was achievable (£173-£184pw). The other gave an opinion of £900 to £1000 pcm (£207-230pw).
21. The Tribunal uses the knowledge and experience of its members. The Tribunal considers that the property would properly be marketed as a 3 bedroom accommodation, the attic rooms having 1 small radiator, restricted head height, steep stairs up to them, and no door at the top of those stairs, so as to be more suited to storage.
22. The Tribunal determines that in all the circumstances the rent for the property, taking into account the location, and let on an Assured Shorthold Tenancy on the same terms, would be £825 per month.
23. The Tribunal agrees that a fixed sum of £1 per week should be added to account for the service provided by the landlord of desludging the private sewage facility, bringing the total valuation to £830 pcm (£192 pw).
24. The Tribunal makes a global deduction of £42 per week to take account of the basic kitchen and bathroom and other matters. The Tribunal considered the Rent Officer's deduction of £13 for general condition to be on the high side, as the property was kept in a reasonable condition, but thought the figure for furniture, curtains and carpets to be a little low. The Tribunal was not convinced of a deduction of £4 for internal decorating responsibility, as such is common in most tenancies.
25. It should be noted, however, that the figure for deductions 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.
26. The Tribunal found no evidence to displace the assumption that there is no scarcity in the locality. The Tribunal relied on its own experience and knowledge in this regard.

Tribunal's calculations

Market Rent:	£ 192.00 per week
Less global deduction	£ 42.00 per week

Adjusted Market Rent	£ 150.00 per week (£650 pcm)

This is the uncapped Fair Rent figure.

27. The Tribunal is required to register a capped Fair Rent if on application of The Rent Acts (Maximum Fair Rent) Order 1999 a lower figure is obtained.
28. The Tribunal does not consider the landlord's works since the last registration to be improvements which have increased the previous rent registered by at least 15%, so as to disapply the cap.
29. The capped rent in this case is £137 per calendar month (inclusive of fixed services). The attached form FR27 gives details of the calculation.
30. The parties should note that £137 is lower than the Rent Officer's figure of £137.50 only because the latest RPI figure (January) of 290.6 is lower than the RPI figure used by the Rent Officer (291.70 of 1st October 2019).
31. The Tribunal determines that the rent charged may not exceed the capped amount of £137 pw (£593.66 pcm).

Name: SJ Evans

Date: 23 March 2020

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