



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

Case Reference : **CAM/33UF/F77/2020/0004**

Property : **2 The Orchards Holt Rd Briningham,
Melton Constable, Norfolk NR24 2QD**

Applicant (Tenant) : **Mr V Cole**

Respondent (Tenant) : **Mrs S J Bunting**

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

Tribunal Members : **Mary Hardman FRICS IRRV(Hons)**

Date of Decision : **8 April 2020**

DECISION

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DECISION

1. The Fair Rent for the Property is determined to be £117 per week, which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, to take effect from 8 April 2020.

REASONS

THE PROPERTY

2. According to the Rent Register and details supplied by the Rent Officer, the applicant tenant and the respondent landlord, the Property is a semi-detached house built around 1900. It has two reception rooms, a kitchen, bathroom and WC to the ground floor and three bedrooms to the first floor.
3. The property has a garden, a lock up shed and a car space.
4. The property has secondary glazing to the bay and to one bedroom but otherwise appears to be single glazed. There is no central heating with the only heating to the property being provided by open fires in the sitting room and dining room. The tenant reports that the back boiler has failed and water is heated via an immersion heater.

5. The kitchen has only a stainless-steel sink and base unit with any white goods supplied by the tenant. The bathroom is also reported to be basic and dated with no shower.
6. The Tribunal noted from the Landlord's representations that they have installed secondary glazing to the front bay and bedroom window since the last rent registration and have also renewed the felt roof and the door to the shed.
7. It is situated in a rural location on the B1110 in Briningham, close to the village of Melton Constable.

THE TENANCY

8. The Tenancy is regulated under the Rent Act 1977 and commenced in 1987. As a Tenancy, not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs.

THE REFERRAL

9. A rent of £113.00 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £121.00 per week, was registered on 8 November 2017 and effective from that date. The Landlord by a notice in the prescribed form received by the Rent Officer on 18 October 2019 proposed a new rent of £118.00 per calendar month. On 28 November 2019 the Rent Officer registered a rent effective from that date of £125.00 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £127.00 a week. In an application received on 20 December 2019 the Tenant referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.

THE INSPECTION

10. No inspection took place due to measures introduced to combat the spread of the Coronavirus (COVID-19) and to protect the parties and the public, particularly those at risk. The Procedural Judge wrote to the parties on 17th March 2020 saying:

Given the current situation and considering Public Health England's advice, the Procedural Judge has determined that the Tribunal's planned inspection of the Property on Tuesday 31 March 2020 will no longer take place.

If any party considers that an inspection is essential to deal with the case fairly and justly then that party must notify the Tribunal (and send a copy of such notification to the opposing party) within the next 7 days setting out reasons. The Judge will then determine whether or not the case should be stayed to allow an inspection to be carried out at a later date. Currently we are unable to say when this might be.

Otherwise the Judge will review the papers that have been submitted and decide whether a decision can be made on the basis of the papers – and possibly an external inspection which would not require any entry onto your property.

Parties were also invited to submit any further evidence that they might wish the Tribunal to consider and which would have been apparent on inspection – which may include photographs.

11. The Landlord e-mailed the Tribunal on 24th March 2020 acknowledging that the inspection would not take place and that they awaited the Judge's decision.
12. No further correspondence was received from the Tenant

THE LAW

13. The Law relating to these reasons is contained in section 70 Rent Act 1977.

REPRESENTATIONS

14. The Tenant made written representations saying the property was unmodernised with no central heating. The only heating was open coal fires in two of the rooms. The back boiler was not functioning meaning that the only source of hot water was the immersion heater which was expensive to run.
15. He felt that there was no explanation of the methodology of arriving at the rent assessment and that the comparable market rent was inappropriate, particularly as the rent officer had not inspected the property in the last 6 years.
16. The adjustments made were an insufficient reflection of the condition of the house, the absence of heating in most rooms and the lack of modern facilities. Comparison with modern properties was inappropriate.
17. He referred to guidelines for rent increases which he said were published by the government and which suggested 1.8% for 2019 and 1% for 2018
18. The Landlord made written representations saying that, since the last inspection in 2014, a number of improvements had been carried out to including new taps to the basin and bath, a new WC, renewed plumbing to the kitchen bathroom and WC and new ceramic tiles to kitchen bathroom and WC together with a new light in the bathroom.
19. Since the rent was last registered in November 2017 she had installed secondary glazing to the front bay and bedroom window and renewed the felt roof and fitted a new door to the shed.
20. The Rent Officer assessed a market rent of £167.00 per week on the basis of comparable properties and provided a list of houses that had been considered. Comparable properties currently on the market are let in good condition with central heating, double glazing, modern kitchen and bathroom and generally with carpets and white goods. The Rent Officer found that the Property was not in such condition and so made a deduction of £41.00 per week and assessed a rent of £126.00 which appears to have been 'rounded' to £127.00. No deduction for scarcity was made.

21. However, the capped rent calculated having regard to the Rent Acts (Maximum Fair Rent) Order 1999 is £125.00 per week and this is the rent that was registered by the Rent Officer.

ASSESSMENT OF A FAIR RENT

22. The Tribunal decided that as the current situation regarding COVID 19 was likely to continue for some time it was in the interests of justice that a determination should be made if possible.
23. The parties were given an opportunity to make representations regarding the assessment of rent. In response to the request as to why the Tribunal should not make a determination based upon the papers alone neither party expressed the view that they considered an inspection essential.
24. The Tribunal, having reviewed the papers was of the opinion that it had sufficient evidence to make a determination in this case.
25. The Tribunal is required to assess the rent for the Property 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 *Spatha 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.
26. The Tribunal, like the Rent Officer, is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market 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.
27. With regard to the condition of the Property, the tenant provided details as set out above as part of his written representations to the Tribunal and this has not been contradicted by the Landlord. The Tribunal therefore found that the Property is unmodernised as stated apart from the limited number of improvements made by the landlord and set out above.
28. Neither party provided rental values for comparable properties. Therefore, the Tribunal used its the knowledge and experience of its members determined that a market rent for the Property with central heating, double glazing, modern kitchen and bathroom, and let with floor coverings and white goods on an Assured Shorthold Tenancy would be £167.00 per week (£725/ month).
29. The Tribunal then considered the evidence that it had available with regard to the Property and found that it lacked central heating, full double glazing, modern kitchen and bathroom and white goods for which it made a global deduction of £50 per week. 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

30. 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 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.
31. That experience and consideration leads the Tribunal to the view that at the time of the determination demand for "... similar dwelling houses in the locality..." that are available for letting was not *significantly* greater than supply. "Locality" in this case being Norfolk. Therefore, no deduction was made to take account of scarcity.

TRIBUNAL'S CALCULATIONS

32. Open Market Rent:	£167.00 per week
Less global deduction	<u>£ 50.00</u>
Fair Rent	£ 117.00

33. 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 rent is £127.50 per week, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the Tribunal is to be registered.

FAIR RENT = £117.00.00 per week to take effect from 8 April 2020.

Mary Hardman
Regional Surveyor

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this 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.