



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

Case Reference : **CHI/00HY/F77/2020/0004**

Property : **The Paddocks
Green Street
Avebury
Marlborough
Wiltshire
SN8 1RE**

Applicant : **Mr P Stevens**

Representative : **None**

Respondent : **Mrs Katie Guest trading as AA
Farthing**

Representative : **Carter Jonas**

Type of Application : **Rent Act 1977 (“the Act”) Determination
by the First-Tier Tribunal of the fair rent
of a property following an objection to the
rent registered by the Rent Officer.**

Tribunal Members : **Mr I R Perry FRICS
Mrs J E Coupe FRICS**

**Date and Venue of
Inspection** : **16th March 2020**

Date of Decision : **16th March 2020**

REASONS FOR DECISION

Summary of Decision

On 16th March 2020 the Tribunal determined a fair rent of £775 per month with effect from 16th March 2020.

Background

1. On 3rd October 2019 the Landlord applied to the Rent Officer for registration of a fair rent of £1,300 per calendar month for the above property.
2. The rent was registered by the Rent Officer on the 29th November 2019 at a figure of £735 per calendar month with effect from the same date. This includes the supply of water.
3. This was the first registration of rent for the property which followed a jurisdictional hearing held by the Rent officer on 25th November 2019. The Tenant had originally occupied the property as an employee of the Landlord. He had left that employment on 25th October 2019 and his occupation had become a protected tenancy.
4. By a letter dated 17th December 2019 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) formerly a Rent Assessment Committee.

Inspection

5. The Tribunal inspected the property on the 16th March 2020 and were shown the property by Mrs Stevens.
6. Mrs Guest was at the inspection with her mother Mrs Farthing. Mrs Stevens was only prepared to allow Mrs Guest into the property. Mrs Guest did not want to enter on her own. It was agreed by all parties that the Tribunal would inspect the property with Mrs Stevens and would verbally confirm their findings about the accommodation afterwards to Mrs Guest and Mrs Farthing, with Mrs Stevens present.
7. It was explained to both parties that we would be valuing the property as seen on the day of inspection subject to any improvements made by the Tenant.
8. The property is a detached bungalow built in the 1970's of brick elevations below a tiled roof. It forms part of a farm leased by Mrs Guest from the National Trust
9. Internally a reception hall gives access to a living room with woodburning stove, a kitchen, two double bedrooms, a single bedroom, a bathroom and separate WC. Outside there are reasonable gardens on four sides, a garage and parking for several vehicles.

10. Mrs Farthing said that the property is within an area of Outstanding Natural Beauty. Avebury itself is a small village some several miles from main shopping and educational facilities at Marlborough and is part of a World Heritage Site.
11. The property has an oil-fired central heating system. Windows are partially timber double-glazed units. Drainage is to a Septic Tank. The wood burner and boiler had both been replaced in recent years, directly by the Landlord or the Freeholder.
12. Internally the Tribunal noted mould within many of the rooms, probably caused by condensation. The mould affects windows, walls and some ceilings.
13. The Tenant supplied all floor coverings, white goods and curtains, including some wood block and tiled flooring. He had also replaced the bathroom fittings and tiled the bathroom walls, replaced the original kitchen units and provided additional cupboards, provided a Triton shower, replaced the original internal doors, built decking over the rear patio and had provided some additional fencing to keep animals within the garden.

Evidence and representations

14. Both parties had made written representations to the Tribunal which had been copied to both parties.
15. The submission from the Landlord's Agent also included evidence of comparable properties in the general area which were being marketed through letting agents in that area and the Tenant also referred to other rentals in the area.
16. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values across Wiltshire in determining the rent.

The Law

17. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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.
18. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [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).

19. The Tribunal also has to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 where applicable. Most objections and determinations of registered rents are now subject to the Order, which limits the amount of rent that can be charged by linking increases to the Retail Price Index. It is the duty of the Property Tribunal to arrive at a fair rent under section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules of the Order. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rent for the subject property.

Valuation

20. 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 in the condition that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in the area of Wiltshire. Having done so it concluded that such a likely market rent would be £1,000 per calendar month including the provision of water.

21. However, the property was not let in a condition considered usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £1,000 per calendar month particularly to reflect the Tenants' improvements and the fact that the carpets, curtains and white goods were all provided by the Tenants which would not be the case for an open market assured shorthold tenancy.

22. Not all the works done by the Tenant would increase the rental value. A further adjustment should be made to reflect the problems of condensation and mould.

23. The Tribunal therefore considered that this required a total deduction of £225 per month made up as follows:

Wood block and tile flooring	£50
Fitting Triton shower	£10
Provision of white goods	£10
Provision of carpets and curtains	£20
Replacing dated kitchen and provision of additional kitchen cupboards	£40

Replacing dated bathroom suite	£20
Property affected by condensation and mould	£75
TOTAL	<hr/> £225

24. The Tribunal did not consider that there was any substantial scarcity element in the area of Wiltshire.

Decision

25. Having made the adjustments indicated above the fair rent initially determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £775 per calendar month including the supply of water.

26. The fair rent to be registered is not limited on this occasion by the Rent Acts (Maximum Fair Rent) Order 1999 because this is the first registration of rent.

Accordingly, the sum of £775 per month including water will be registered as the fair rent with effect from the 16th March 2020.

Chairman: I R Perry FRICS

Dated: 16 March 2020

Appeals

27. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

28. 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.

29. 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.

30. 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.

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 take 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 the permission.