



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

Case Reference : **CAM/26UD/F77/2019/0004**

Property : **91 High Street, Watton at Stone,
Hertford, SG14 3SZ**

Applicant (Tenant) : **Mrs C A Smith**

Representative : **None**

Respondent (Landlord) : **The Abel Smith Trust Estate**

Representative : **Woodhall Estate**

Type of Application : **Section 70 Rent Act 1977 – to
determine a fair rent**

Tribunal Members : **Judge John Hewitt
Ms Marina Krisko BSc (EstMan) FRICS**

Date of Decision : **29 April 2019**

Date of Reasons : **1 May 2019**

REASONS for DECISION

1. The issue before the tribunal and its decision

- 1.1 The issue before the tribunal is the fair rent to be registered following an objection made by the tenant to the registration by the Rent Officer on 8 February 2019 of a fair rent of £2,114.00 per quarter payable with effect from 8 February 2019.
- 1.2 The decision of the tribunal is that the fair rent to be registered is £1,890.00 per quarter payable with effect from 29 April 2019 being the date of the tribunal's decision.

2. Background

- 2.1 On 24 December 2015 the Rent Officer registered a rent of £1,936.00 per quarter effective from 10 January 2016 following a determination by the Rent Officer. An objection was made to that registration.
- 2.2 On 21 April 2016 a rent of £1,850.00 per quarter effective from that date was registered pursuant to a decision of the First-tier Tribunal (Property Chamber).
- 2.3 On 14 December 2018 the Rent Officer received an application on behalf of the landlord for the registration of a fair rent of £8,100.00 per annum for the property.
- 2.4 On 8 February 2019 the Rent Officer registered a rent of £2,114.00 per quarter effective from that date following a determination by the Rent Officer.
- 2.5 By a letter dated 14 March 2019 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the tribunal.

3. Inspection

- 3.1 The tribunal inspected the property on 29 April 2019 and found it to be in average to poor condition for age and type. It does not appear to have been maintained regularly and on a routine basis by the landlord.

It is a small two bed-roomed period property, mostly of brick but with some timber cladding.

Internally, on the ground floor, there is a small entrance lobby, a small galley kitchen leading to an awkwardly shaped shower room/wc directly off and two reception rooms, both of which were rather dark and gloomy with little natural light.

A steep and narrow internal staircase leads to two bedrooms on the upper floor.

In particular, we noted the Property suffered damp and condensation and was only part central heated by the landlord. The single glazed windows were in poor condition, the front door was defective and does not lock securely. The surface mounted electrical installation was not in good order and evidently the landlord has undertaken works which have resulted in a number of electrical sockets being disconnected although they were working perfectly well before the works were undertaken. There is now an insufficient number of working sockets.

The bathroom has been fully refitted to include a new suite, heated towel rail, tiling and lighting.

The Property is approached from a shared drive at the front. There is a large rear garden but it lies steeply downwards.

3.2 The tribunal noted the tenant had kept the premises in reasonably good decorative order. Evidently, tenant has carried out a number of improvements, including:

- Floor coverings throughout;
- Installation of a number of central heating radiators;
- A new kitchen;
- Provision of white goods;
- A fire and surround, plastering and skirting boards in the living room;
- Loft insulation;
- Handrails to the stairs;
- A substantial wooden stairway leading down to the rear garden; and
- Substantial decking/seating area to the rear of the house.

4. Evidence

4.1 The tribunal received written representations from the tenant. These were copied to the landlord. The landlord did not file any representations in answer.

4.2 Neither party requested a hearing at which oral representations could be made.

5. The law

5.1 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 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.

5.2 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:

5.2.1 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

5.2.2 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).

6. Reasons for the decision

6.1 In coming to its decision the tribunal had regard to the representations filed by the tenant. The gist of those representations concerned the condition of the property as regards the electrics, the front door, condensation on the windows, dampness through the wallpaper and the need for annual redecoration, the lack of loft insulation by the landlord, and limited privacy. Reference was also made to the tenant's husband laying loft insulation, plastering internal walls and landscaping the garden.

6.2 No representations were made as to the rental value of the property or to the rental value of nearby similar properties that might be used as comparables.

6.3 In the absence of any representations or rental evidence from the parties, the members of the tribunal drew on their own general knowledge of market rent levels in rural areas between Hertford and Stevenage.

We concluded that an appropriate open market rent for the subject property in good condition, double glazed, centrally heated and with modern fittings and white goods, curtains and carpets, and a sufficient number of electrical sockets and in line with current market expectations would be £3,000.00 per quarter.

6.4 However, the subject property is not in the condition considered appropriate for a modern letting at a full market rent. Therefore it was first necessary to adjust that hypothetical rent of £3,000.00 per quarter to allow for the substantial differences between the condition considered usual for such a letting and the actual condition of the subject property as observed by the tribunal but disregarding:

6.4.1 the effect of any disrepair or other defect attributable to the tenant or any predecessor in title of the tenant, and

6.4.2 any relevant improvements carried out by the tenant.

- 6.5 In coming to our decision we have made adjustments to reflect the above matters. There is no simple or precise arithmetical approach which can be adopted to reflect each of the nuances we have to take into account. We can but take a broad and global view. Drawing on our accumulated expertise in these matters we concluded that an appropriate adjustment to make was in the region of 30% from the starting full open market rent for the property. In arriving at this adjustment we have not based it specifically upon capital cost. It is our estimate of the amount by which the rent would have to be reduced to attract a tenant to the property in its present condition.

This leaves an adjusted market rent for the subject property of £2,100.00 per quarter.

- 6.6 We found that there was substantial scarcity in the locality of Hertfordshire and therefore made a deduction of about 10% from the adjusted market rent to reflect this element. Accordingly we determined that the uncapped fair rent was £1,890.00 per quarter.
- 6.7 The section 70 fair rent determined by the committee is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect.

Details are provided on the back of the decision form.

- 6.8 For these reasons the fair rent to be registered is £1,890.00 per quarter

Judge John Hewitt 2019

1 May 2019

ANNEX - RIGHTS OF APPEAL

1. By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify parties about any rights of appeal they may have.
2. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to this tribunal - the First-tier Tribunal at the regional office which has been dealing with the case.
3. The application for permission to appeal must arrive at the regional office within 28 days after the date on which the tribunal sends out to the person making the application the written reasons for the decision.

4. 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.
5. 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.
6. If the tribunal refuses permission to appeal, a further application for permission may be made directly to the Upper Tribunal (Lands Chamber)