



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

Case Reference : CAM/42UB/F77/2019/0011

Property : 2 Chestnut Terrace, Hall Street, Long Melford
CO10 9JE

Tenant : Mrs D Theobald

Landlord : Northumberland and Durham Property Trust
Ltd

Type of Application : Determination of rent under Rent Act 1977

Tribunal Members : Judith Lancaster Chairman
Gerard Smith MRICS FAAV Valuer Member

Date of Decision : 14 July 2019

STATEMENT OF REASONS

DECISION

The Tribunal determined a Fair Rent of £117.00 per week.

THE PREMISES:

1. The Property is a mid-terrace period two-storey house, built of brick and tile, located on the High Street in a very popular village. There is no front garden, and a thin off-set rear garden, with no fencing or clear boundary with the adjoining property, a shed belonging to the Tenant, and a pedestrian right of access across the rear. There is no off-street parking. The external condition is generally satisfactory, although the front window frame is in need of repair.

2. On the ground floor the accommodation consists of a sitting room, dining room, and a small kitchen with dated kitchen fittings, which leads directly into small conservatory – however, there is quite a large step up from the kitchen into the conservatory. Steep stairs from the dining room lead up to a small landing off which is a double bedroom, and a room which is big enough to be used as a bedroom, but through which you have to pass to get to the bathroom/WC, and to access the stairs to the attic bedroom. The bathroom fittings are dated. The Property does not have central heating, but it does have some night storage heaters, but the attic bedroom has no heating and there is an electric heater in the bathroom. Hot water is via an immersion heater. The Tribunal noted that the Landlord has provided no furniture, carpets, curtains or white goods.

THE TENANCY

3. The Tenancy started in 1967, and the Landlord's repairing obligations are as under section 11 of the Landlord and Tenant Act 1985.

THE APPEAL

4. The Rent Officer registered a Fair Rent capped at £114.50 per week on 6/3/19, effective from that date. The uncapped figure was £136.00 per week. By letter dated 29 March 2019 the Landlord appealed. Neither party requested a hearing, and both parties submitted written representations.

THE LANDLORD'S CASE

5. The main points of the Landlord's case may be summarised as follows:

- a) the Property is situated in a conservation area, in a picturesque and desirable village, and is well-served by public transport, with good road links to A11/M11 and A14 and a railway station in Sudbury;
- b) although the Property is not fully modernised, it is well-maintained and without disrepair,
- c) since the last rent registration the Landlord has improved the property with external repairs and redecoration, including chimney stack and roof repairs, and demolition and rebuilding of the kitchen conservatory extension;
- d) the Tribunal's attention was drawn to specific case law, giving guidance as to how to fulfil the Tribunal's obligations, and the Tribunal was requested to follow the guidance in assessing a rent and taking account of all the relevant criteria;
- e) comparable rent evidence was submitted;
- f) there is a good supply of rented accommodation available within a reasonable area and therefore little evidence of scarcity affecting rental values;
- g) the Rent officer's assessment of the uncapped rent, £136.00 pw, or £589.33 pcm, generally endorses the Landlord's application for £575.00 pcm. The reason for the Landlord's objection is that the Landlord does not believe the rent should have been capped. The Tribunal is requested to ensure that the provisions of the Rent Acts (Maximum Fair Rent) Order 1999/Section 2 Maximum Fair rent Paragraph (7) be applied correctly in this case.

THE TENANT'S CASE

6. The main points of the Tenant's case may be summarised as follows;

- a) the Rent Officer is familiar with the Property, and has previously set an accepted Fair Rent
- b) since the Fair Rent was last set in 2015 maintenance and repairs have been completed as has the replacement of the conservatory, the previous one being in poor repair
- c) general maintenance and fabric upkeep are part of the Landlord's obligations under the existing tenancy agreement, and most of the Landlord's expenditure was for maintenance/repair works – the replacement of the conservatory was less than 4% of the total expenditure. The Tenant has to assume that the Landlord's objection to the Fair Rent is as a result of money invested, rather than the method used to make the Fair Rent calculation, hence the inclusion of the contractor's tender and payment certificates
- d) there is no explanation as to why the accepted tender of £46,000, with a programme of 10 weeks, turned into a contract of £78,000 and more than 52 weeks duration;
- e) property in this area is increasingly desirable, and the investment dividend for the Landlord will be on re-sale rather than recovered by a rental increase. In recent weeks 3, Chestnut Terrace has been put on the market for in excess of £300,000.

THE LAW

7. Attached to this Statement of Reasons is a resumé of the law as applied by the Tribunal. It forms an integral part of the Reasons of the Tribunal.

THE DECISION

8. The Tribunal noted the representations made by the parties. The cost of works done to a property is not of direct relevance in the calculation of a Fair Rent, nor is the return on the Landlord's investment – a Fair Rent is determined by assessing an open market rent, and then making any relevant deductions, as set out below, taking into account the provisions of the Rent Acts (Maximum Fair Rent) Order 1999.

9. The assessment of a Fair Rent starts with an assessment of the open market rent. The Tribunal noted the evidence as to comparable rents provided by the Landlord, particularly 5, Chestnut Terrace, which appeared from the exterior to be very similar to the Property, is also owned by the Landlord, and which the Landlord stated was directly comparable to the Property, and currently let on an assured shorthold tenancy at £160.00 pw, £693.33 pcm. The rents of the other comparables appeared to be asking rents, rather than rents actually achieved, and were therefore of limited value to the Tribunal. The Tribunal also relied on the members' knowledge and experience of open market rents in the area. It is the Tribunal's view that the open market rent for a similar property, in good condition with modern facilities, carpets, curtains and some white goods, would be £690.00 per calendar month.

10. The Property has to be valued on the basis of the facilities currently provided, as set out above, and without carpets, curtains or white goods, and the Tribunal decided to make the deduction set out in the summary below to reflect those matters. It should be noted that this cannot be a simple arithmetical calculation but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

11. As to scarcity, the Tribunal decided that there is no substantial scarcity of 'similar dwelling houses in the locality' available for letting and a deduction would not be made to reflect this. The matters taken into account by the Tribunal were;

- a. the Tribunal interpreted the "locality" for scarcity purposes as being south Suffolk/north Essex ie a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent;
- b. the members of the Tribunal have many years of experience of the residential letting market between them and that experience leads them to the view that demand does not substantially exceed supply for similar properties in the locality defined above.

SUMMARY

Open market rent for similar property in good condition with modern facilities	£690.00 pcm
Less:- Global deduction for condition and lack of modern facilities, carpets etc.	<u>£120.00 pcm</u>
	£ 570.00 pcm

This equates to £131.50 per week.

12. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 must then be considered. Paragraph 2(7) of the Order provides that capping does not apply 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.”

13. The exercise that must be carried out is to assess the amount by which the new Fair Rent (£131.50 pw) exceeds the previous registered rent (£99.50 pw) wholly as a result of relevant Landlord’s works carried out since the last rent registration. If that amount is at least 15% of the previously registered rent (i.e. £14.92 pw in this case) then capping will not apply.

14. The Tribunal assessed that in this case that the amount attributable to the Landlord’s works, as set out above, is less than £14.92 pw. As a result, the Order does apply, and the Maximum Fair Rent figure, £117.00 pw, applies.

15. The Tribunal therefore determined a Maximum Fair Rent of £117.00 per week.

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Judge Lancaster

Caution: The Tribunal inspected the subject property for the purpose of reaching a decision. Such inspection is not a structural survey and only takes a few minutes. Any comments about the condition of the property in this Statement of Reasons are made as a result of casual observation rather than a detailed inspection. Please do not rely upon such comments as a guide to the structural condition of the property.

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.

