



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

**Case Reference** : **CAM/00KF/F77/2019/0028**

**Property** : **52 Heygate Avenue Southend on Sea  
Essex SS1 2AR**

**Applicant** : **Mr Robert Perrin**

**Respondent** : **Trustees of WC and SJ Bradley**

**Date of Application** : **18 August 2019**

**Type of Application** : **Determination of the registered rent  
under Section 70 Rent Act 1977**

**Tribunal** : **Mrs E Flint FRICS  
Mr J E Francis QPM**

**Date and venue of  
meeting** : **11 December 2019  
197 East Road Cambridge CB1 1BA**

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**DECISION**

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The registered rent with effect from 11 December 2019 is £640 per month.

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## **Background**

1. On 17 June 2019 the landlord applied to the rent officer for registration of a fair rent of £755 per month for the above property.
2. The rent payable at the date of the application was £651.50 per month which had been registered by the rent officer on 1 August 2017 with effect from 17 September 2017.
3. On 24 July 2019, the rent officer registered a fair rent of £718.50 per month with effect from 17 September 2019.
4. On 18 August 2019 the tenant objected to the rent determined by the Rent Officer.
5. A hearing was offered, neither party wished to attend. Prior to the inspection which was attended by representatives of the landlord, the tenant sent written representations to both the Tribunal and the landlord's agent.
6. The tribunal inspected the house on the morning of 11 December 2019.

## **The Evidence**

7. Mr Perrin stated in his written representations that the path to the front door was dangerous, the property suffered from many long-standing defects which he listed. He referred to the general condition including the windows and pointing, the draughty doors and windows. The chimney had been removed when the roof was replaced preventing him using gas fires in the front and middle rooms on both floors. He noted that the landlord should be aware of the condition as it had been noted by the Rent Officer in his survey notes.

## **Inspection**

8. Heygate Avenue is a heavily parked residential street of two storey houses built c1900 very close to the seafront and on the edge of the town centre. It is within a few minutes walking distance of the bus station, railway station, shopping centre and other local facilities.
9. The property is a two storey end terrace house built in 1898. Externally the decorations were poor and many of the window frames were rotten with some missing putties. The front door was the original with stained glass panels in the upper half. There was a small front garden leading to the front door, the tiled path had a number of missing and cracked tiles. The rear elevation had areas which required repointing, very poor windows, the back door was rotting at the bottom. There was a small garden with pedestrian access to the side.

10. The accommodation comprises three rooms and kitchen on the ground floor, three bedrooms, bathroom and separate wc on the first floor. The kitchen units had been provided by the tenant who had also rewired the house some years ago. The bathroom and wc were dated.
11. The front rooms had very good natural light due to the large single glazed original sash windows forming a two storey bay to the front elevation. The plasterwork appeared to be the original and was cracked in a number of places. There was evidence of past water ingress in several rooms which had occurred prior to the roof being replaced: no making good had taken place following the repair. The original open fireplace in the front living room was no longer usable as the chimney had been removed when the roof was replaced.
12. There were damp patches in the hall by the front door, in the living room in the back addition and below the window in the bedroom in the back addition.
13. Apart from a double glazed window in one of the bedrooms and the tenant's improvements including rewiring and fitting out the kitchen the house is unmodernised, unheated and in a poor state of repair. It is not in a condition which could be considered comparable to those houses available to let on the open market which are generally in good condition having been refurbished with central heating and double glazed windows often with good quality front doors.

### **The law**

14. 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.
15. 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 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 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).

### **Valuation**

16. 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. Since neither party provided any rental

evidence the Tribunal had to rely on its own general knowledge of rental values in Southend. The Tribunal concluded that the likely market rent for the house would be £1100 per month.

17. However, it was first necessary to adjust the hypothetical rent of £1100 per month to allow for the considerable differences between the terms and condition considered usual for such a letting and the condition of the actual property at the date of the inspection, ignoring the tenant's improvements, (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Tribunal considered that these differences required a deduction of £350 per month.
18. This leaves an adjusted market rent for the subject property of £750 per month. The Tribunal was of the opinion that there was substantial scarcity in the commuter areas in Essex for similar sized properties and therefore made a deduction of 15% from the market rent to reflect this element giving a monthly uncapped rent of £640. The Tribunal finds that the poor state of repair has resulted in a continuing deterioration in the standard of the living accommodation in the house.

### **Decision**

19. The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £640 per month.
18. The uncapped fair rent is below the maximum rent payable, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 and therefore the capping provisions do not apply. (Details of the calculation are provided on the back of the decision form).
19. **Accordingly the sum of £640 per month will be registered as the fair rent with effect from 11 December 2019 being the date of the Tribunal's decision.**

*Chairman: Evelyn Flint*

Dated: 12 December 2019

