



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

**Case Reference** : **CHI/18UH/F77/2020/0023**

**Property** : **Clapperland Lodge  
Ugbrooke Park  
Chudleigh  
Newton Abbot  
Devon  
TQ13 0AG**

**Applicant** : **Mr R Reade**

**Representative** : **None**

**Respondent** : **The Clifford Estate Co Ltd**

**Representative** : **None**

**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  
Mr R Brown FRICS  
Mr S Hodges FRICS**

**Date and Venue of  
Inspection** : **None. Decided on the papers.**

**Date of Decision** : **21<sup>st</sup> December 2020**

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**REASONS FOR DECISION**

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## **Summary of Decision**

On 21<sup>st</sup> December 2020 the Tribunal determined a fair rent of £635 per month with effect from 21<sup>st</sup> December 2020.

## **Background**

1. On 17<sup>th</sup> June 2020 the Landlord applied to the Rent Officer for registration of a fair rent of £ 653 per calendar month for the above property.
2. The rent was previously registered on the 13<sup>th</sup> August 2018 at £610 per month following a determination by the Rent Officer. This included a sum of £26 per month for provision of water from a private source.
3. The rent was registered by the Rent Officer on the 21<sup>st</sup> August 2020 at a figure of £635 per calendar month with effect from the 21<sup>st</sup> August 2020 This includes the sum of £22 per month in respect of the supply of water.
4. By a letter dated 15<sup>th</sup> September 2020 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.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
6. The Tribunal office informed the parties that the Tribunal intended to determine the rent on the basis of written representations subject to the parties requesting an oral hearing. No request was made by the parties for a hearing. The parties submitted written representations, copies of which were sent to each other.

## **Submissions**

7. The property is described as a pre-1800 listed detached lodge/cottage at the gateway to a stately home. It is built of stone elevations beneath a thatched roof and is situated in a rural situation a few miles south west of Exeter.
8. The accommodation comprises two Living rooms, Kitchen, Bathroom, Conservatory, Lobby and Hall all at ground floor level with three bedrooms on the first floor. Outside there are gardens and parking spaces.
9. The rent assessed by the Rent Officer was based on an open market rent of £900 per calendar month which had been reduced by a total of £265 per month to take into account factors including repairs, decorations and

furniture together with the tenant's provision of carpets, curtains and white goods.

10. In his succinct and clear letter objecting to the rent the Tenant was specific that his objection was against the private water charges that had been made over a considerable period, and his frustration that this had not been dealt with by the Landlord. Eventually a leak had been discovered within the stopcock box within the garden of the property and further leaks had been registered from corroded taps within the house and from a constantly running cold water cistern to the WC.
11. The outcome of these leaks had resulted in monthly water charges of £45 per month which he considered to be excessive.
12. From the papers it was clear that the Landlord had finally taken action to repair the leak to the stopcock box.
13. The Landlord had taken note of the excessive usage due to the leak and had reduced the water bill by 50% to £22 per month. The Tribunal established from its own enquiries that is in line with the normal level of consumption for a property of this type. The cost of water supplied by the Landlord is 50% of that charged by Severn Trent for the supply of mains water.
14. Neither party objected to or made any representations about the level of rent.

## **The Law**

15. 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.
16. 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).

17. 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**

18. 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 to it and the Tribunal's own general knowledge of market rent levels in South Devon. Having done so it concluded that such a likely market rent would be £900 per calendar month.
19. 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 £900 per calendar month particularly to reflect the repair, decoration and that the carpets, curtains and white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
20. In the absence of any further evidence or representation the Tribunal accepted the figure assessed by the Rent Officer comprising a total deduction of £265 per month.
21. The Tribunal did not consider that there was any substantial scarcity element in South Devon and made no further adjustment for this.

### **Decision**

22. 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 £635 per calendar month.
23. The registered rent is not to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s71(4)).
24. 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 details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.

- 25. Accordingly the sum of £635 per month will be registered as the fair rent with effect from the 21<sup>st</sup> December 2020 being the date of the Tribunal’s decision.**

### **Appeals**

26. 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. Where possible you should send your application for permission to appeal by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
27. 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.
28. 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.
29. 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.