



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

Case Reference : CAM/00KF/F77/2021/0015

Property : 5, Park Rd, Westcliff-on-Sea, SS20 7PE

Tenant : Mr R Willoughby

Landlord : Regis Group Plc

Type of Application : Determination of rent under Rent Act 1977

Tribunal Members : Judge Judith Lancaster Chairman
Miss Marina Krisko BSc (Est Man) FRICS Valuer Member

Date of hearing : 5 July 2021

Date of Decision : 5 July 2021

STATEMENT OF REASONS

DECISION

The Tribunal determined a Fair Rent of £720.00 per calendar month.

THE PREMISES:

1. Due to Covid-19, the Tribunal did not inspect the Property, but made their determination on the basis of the information provided by the Rent Officer and the parties, and information gained from internet mapping applications, and photographs of the Property on the internet, and their knowledge of the local area.
2. The Property is a first-floor flat, situated in a residential area approximately one mile from the centre of Westcliff-on-Sea and Southend. It is part of a 2-storey brick house, with a pitched roof, bay windows at the front on the ground and first floor, and a 2-storey rear extension. The house is approximately 100 years old, and was built as a rectory for the adjacent church. There is no double glazing. There is a large and neglected front garden, with a dwarf brick wall at the front, and it appears there is no off-road parking. The accommodation consists of a living room, dining room, kitchen, 3 bedrooms, and bathroom and WC.
3. As to condition, the external condition appears from the information available to the Tribunal to be reasonable. The Landlord has recently carried out significant works to the inside of the Property, since the last rent registration, and provided the Tribunal with photographs of the inside of the Property, which appear to show that the internal condition is satisfactory, with

modern kitchen and bathroom fittings.

4. The Tenant moved out of the Property on 21/12/18 in order for the works to be done, and has not yet been able to move back in. The Tenant stated that, when he moved out, 2/3 of the chimneys were leaning inwards, some of the windows were rotten, the floor in the Property was significantly bowed, there were no fire alarms, and the electrical junction boxes in the loft were cracked. Up to that point, there had never been a proper kitchen. The Tenant does not know exactly what works the Landlord has carried out, but he believes that the Landlord has repaired and re-slatted the roof, fitted new floor-boards, installed a modern kitchen with a cooker and a micro-wave, and installed fire alarms.

THE TENANCY

5. The Tenancy is a statutory regulated monthly tenancy. Section 11 of the Landlord and Tenant 1985 applies in respect of the Landlord's repairing obligations.

THE APPEAL

6. The Rent Officer registered a Fair Rent of £875.00 per calendar month on 15/10/20, effective from that date, and the Tenant appealed on 10 November 2020. The Tenant requested a telephone hearing, which the Landlord did not attend. Both parties submitted written representations, and the Landlord submitted photographs of the inside of the Property, after the recent works had been completed.

THE TENANT'S CASE

7. The main points of the Tenant's case which are relevant to this determination may be summarised as follows;

- a) the Tenant wishes to contest the massive rent increase of £290.00 pcm, to £875.00 pcm. The rent has increased phenomenally since the Tenancy began in 1995, when it was £255.00 pcm
- b) the windows were rotten before the Tenant moved out. The Tenant is not sure exactly what works have recently been carried out by the Landlord and he doesn't know if the windows have been repaired
- c)) the Tenant made part of the Property sound-proof, to protect the downstairs occupiers from excessive noise, because he is a musician, and installed 2 stand-alone air-conditioning units in the room he used as a music room
- d) in carrying out the recent works, the Landlord has removed a window seat;
- e) the Tenant installed gas central heating in 1993, and replaced the boiler approximately 4 years ago
- e) the Tenant a installed a stair-lift, and rails over the bath and beside the stairs, because he is disabled
- f) the Tenant increased the height of the work-tops in the kitchen because he is very tall
- g) the Tenant installed a light over the medicine cabinet in the bathroom
- h) rents in Southend and Westcliff-on-Sea have increased substantially recently, and it is very difficult to find a flat of a similar size to the Property
- i) the Tenant believes the correct Fair Rent for the Property now, after the works have been done, would be £600.00 pcm.

THE LANDLORD'S CASE

8. The main points of the Landlord's case which are relevant to this determination may be summarised as follows;

- a) the Landlord had requested that the Rent Officer register a Fair Rent of £936.00 pcm

- b) the recent works are new kitchen units with worktops, cooker and microwave, a new bathroom suite, new internal doors with architraves and skirtings, floor coverings to all rooms, replacement of electrical installation, renewal of bow window, internal decorations
- c) the Landlord submitted a number of invoices, but it was not clear exactly what these related to.

THE LAW

5. 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

9. The Tribunal noted the representations made by both parties.

10. The Tribunal cannot take personal circumstances into consideration, nor works done to the Property by the Tenant which were for his own specific benefit, and would not raise the open market rent – sound-proofing, the stair lift and additional rails on the stairs and in the bathroom, higher than normal work-tops in the kitchen.

11. The assessment of a Fair Rent starts with an assessment of the open market rent as at the date of the Tribunal's decision. Previous rents are not relevant to this assessment, or the Tribunal's decision, as they may, or may not, have been based on open market rents, and evidence of asking rents is not evidence of rents achieved.

12. 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, floor coverings, curtains and white goods, would be £1000.00 per calendar month. The Tribunal then made a deduction for the fact that the Tenant had installed the central heating, there is no double glazing, and the Landlord has not provided curtains, and only limited white goods. The fact that there is no longer a window seat, or that the Tenant installed a light over the medicine cabinet in the bathroom and 2 stand-alone air conditioning units are of no significant value to the rent. It should be noted that this deduction 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. A deduction of £200.00 pcm was made to reflect these items, this deduction being the Tribunal's assessment of the amount by which the rent would have to be reduced to attract a tenant.

13. As to scarcity, there is no way of knowing either the exact number of people looking for properties similar to the Property in the private sector, or the exact number of such properties available. It can only be a judgment based on the years of experience of the Tribunal, together with a consideration of the properties advertised as being to let at the time of the determination, and any representations of the parties. These factors lead the Tribunal to the judgment that there is a substantial scarcity of 'similar dwelling houses in the locality' available for letting and a deduction of 10% would be made to reflect this. The Tribunal interpreted the "locality" for scarcity purposes as being South and East Essex, ie a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent.

SUMMARY

Open market rent for similar property in good condition with modern facilities	£1000.00 pcm
Less:-	
Deduction for lack of central heating, double glazing, curtains and white goods	<u>£ 200.00 pcm</u> £ 800.00 pcm
Deduction for scarcity	<u>£ 80.00 pcm</u>
Fair Rent determined by the Tribunal	£ 720.00 pcm

14. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 must then be considered. The capped rent would have been £670.00 pcm, but 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 (£720.00 pcm) exceeds the previous registered rent (£585.00 pcm) 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. £87.75 pcm 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 more than £87.75 pcm. As a result, capping does not apply.

15. The Tribunal therefore determined a Fair Rent of £720.00 pcm.

.....
Judge Judith Lancaster

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.

