



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

Case Reference : **CHI/00HY/F77/2022/0003**

Property : **North Lodge
Roche Court
East Winterslow
Salisbury
Wiltshire
SP5 1BG**

Landlord : **Madelaine Countess of Bessborough**

Representative : **Fowler Fortescue**

Tenant : **Mr & Mrs C Burt**

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 BSc FRICS
Mr P E Smith BSc FRICS
Mr M C Woodrow MRICS**

Date of Inspection : **None. Paper determination**

Date of Decision : **3rd March 2022**

DECISION

Summary of Decision

On 3rd March 2022 the Tribunal determined a fair rent of £950 per month with effect from 3rd March 2022.

Background

1. On 16th November 2021 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £1,380 per calendar month for the above property.
2. The rent was previously registered on the 28th November 2018 at £810 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 7th December 2021 at a figure of £935 per month with effect from the same date.
4. By a letter dated 23rd December 2021 the Landlord's Agent 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.
7. The parties were invited to include photographs and video within their representations if they so wished. Representations were made which were copied to both parties.
8. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.

The Property

9. The property is described as a detached house built between 1800-1918 with accommodation comprising a Living Room, Kitchen/Diner, Utility and WC, three Bedrooms and Bathroom with WC. Outside there are gardens and off-road parking.
10. In the original application to the Rent Officer, the Landlord's Agent details improvements made to the property since its last rent registration. These works included the recovering of the main roof and insulation, new rainwater goods, installation of an oil-fired central heating system and improved electrics. Other general works of repair were completed at the same time.
11. The property is situated in a rural position about 9 miles north east of Salisbury.

Evidence and Representations

12. Both parties had made written representations to the Tribunal which had been copied to both parties. The original Tenancy document was provided to the Tribunal which showed that the Tenancy had commenced on 1st January 1974 at a rent of £45.50 per month. The Tenant is responsible for internal decorations- subject to Section 11 of the Landlord and Tenant Act 1985
13. On 16th November 2020 the Local Authority had served an improvement Notice on the Landlord. Subsequently the Landlord had completed works of repair to the property, including replacement of the main roof and had made improvements to the property by installing central heating.
14. Once these works had been completed the Landlord's Agent had applied to the Rent Officer for a new registration of rent.
15. The Tenant included a number of photographs of the property showing areas of disrepair to the outside of the house and a "structural crack" in the Hall.
16. The Tenant has made a number of improvements over a long period including fitted wardrobes in the main Bedroom, provision of Kitchen cupboards and Woodburner, and states that the kitchen fittings are 30 years old and the bathroom fittings are nearly 50 years old. The Tenant also provides carpets, curtains, and white goods. It is also noted that the Utility Room roof is said to be in poor repair.
17. The submission from the Landlord's Agent included evidence of comparable properties in the general area which were being marketed through letting agents in that area. The asking rents for these properties ranged from £1,200 per month to £1,350 per month.
18. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values in determining the rent.

The Law

19. 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.
20. 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).
21. 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

22. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only, with no oral hearing. Having read and considered the papers it decided that it could do so.
23. 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 by the parties and the Tribunal's own general knowledge of market rent levels in the area of south Wiltshire. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.
24. 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 £1,200 per calendar month particularly to reflect the fact 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. In addition, an adjustment needs to be made for the Tenant's decoration liability, the poor Utility roof, Tenants improvements and general disrepair including the serious crack in Hallway.
25. The Tribunal therefore considered that this required a total deduction of £250 per month made up as follows:

Tenant's carpets and curtains	£50
Tenant's provision of white goods	£30
Poor Utility roof	£20
Tenant's decoration liability	£50
General disrepair to outside and Hallway crack	£50
Tenant's improvements	£50
TOTAL	<hr/> £250

26. The Tribunal did not consider that there was any substantial scarcity element in the area of south Wiltshire.

Decision

27. 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 £950 per calendar month.
28. The fair rent to be registered is limited by the Rent Acts (Maximum Fair Rent) Order 1999 unless by virtue of the Landlord's repairs and or improvements since the previous registration the rent determined by the Tribunal exceeds the previous registered rent by 15%.
29. The previous registered rent was £810 per month. The Tribunal agrees with the Rent Officer that the recent repair and improvement work carried out by the Landlord, including re-roofing and the installation of central heating, would have increased the rent by more than £121.50 per month. Therefore, the new rent is not limited by the Maximum Fair rent Order.

Accordingly, the sum of £950 per month will be registered as the fair rent with effect from the 3rd March 2022 being the date of the Tribunal's decision.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. 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.
3. 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 time or not to allow the application for permission to appeal to proceed.
4. 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.