



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

Case reference : **CAM/26UJ/F77/2021/0038**

HMCTS code : **A:BTMMREMOTE**

Property : **38 The Platt Chenies
Rickmansworth Herts WD3 6EP**

Applicants (Tenant) : **Mr C and Mrs J Bragg**

Respondent (Landlord) : **Charles MacLeod Matthews**

Type of application : **Determination of a fair rent under
section 70 of the Rent Act 1977**

Tribunal members : **Mary Hardman FRICS IRRV(Hons)
Peter Roberts FRICS CEnv**

Date of decision : **13 April 2022**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a telephone hearing described above as A: BTMMREMOTE. The documents that I was referred to are in bundles from the Applicants and the Respondent. I have noted the contents and my decision is below.

Decision

The tribunal determined a fair rent of £750 per calendar month

Reasons

Background

1. On 11 October 2021 the landlord made an application to register the rent of the property at £900 per month
2. On 25 November 2021 the Rent Officer registered a Fair Rent of £750.50 per calendar month with effect from the same date. This was in lieu of the previous registered rent of £662.50 per month from 28 March 2019.
3. The Landlord objected, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 22 December 2021, inviting the parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the tribunal to consider. Reply forms, photographs, further details and submissions were provided by the parties.

The property

5. The tribunal inspected the property on 7 March 2022. The tenant, Mr C Bragg was present at the inspection as was Ms Michele Flood on behalf of the landlord. Ms Flood remained outside the property and did not accompany the tribunal on its inspection of the property.
6. The Property is a pre-1900 two-bedroom terraced property of brick construction with a tiled roof . There is a communal garden to the front and enclosed private garden to the rear. It is in a semi-rural setting amongst similar property.
7. The accommodation comprises a living room, dining room and kitchen to the ground floor, two bedrooms and a bathroom to the first floor.
8. The property is heated via night storage heaters which were installed by the tenant and has single glazed windows. There is parking to the front of the property and a storage shed, also to the front of the property in a block of similar sheds.
9. There appears to be some dispute between the parties in respect of use of a small storage area by the common driveway to the group of properties that 38 forms part. Given the nature of the property and the availability of space the tribunal does not regard this as having any significance in terms of the rental value.

10. The tenants fitted the kitchen units, sink tiling and island in the kitchen and supplied the white goods. They also supplied the log burner in the living room together with the fire surround and tiling. The door to the front porch was supplied and fitted by the tenant.
11. On the first floor the tenants have lowered the ceiling in the main bedroom to deal with draughts. They also fitted cladding to the walls in the bathroom, replaced the high-level cistern, sink and bidet and the taps.
12. There is evidence of historic water ingress in the second bedroom but otherwise the property is in fair condition for its age.
13. The carpets, floor coverings and curtains were provided by the tenants.

The law

14. The relevant law is set out in section 70 of the 1977 Act and the MFR Order. We are to have regard to all the circumstances (other than personal circumstances) and in particular to the age, character, locality and state of repair of the Property. We are to disregard the effect on the rental value of any improvements carried out by the tenant (other than in pursuance of the terms of the tenancy). We are also required (by s.70(2)) to assume that the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent; in effect, if such scarcity exists, we are to adjust the rental figure so that the fair rent is not affected by it.
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 confirmed that for the purposes of determining the market rent (before making any necessary adjustments), open market assured tenancy rents are usually appropriate comparables.
16. By section 72 of the 1977 Act, if the rent is determined by the tribunal, the registration of the rent takes effect from the date we make our decision.

Representations – tenant

17. The tenants, in their written submission said that they felt that the new rent should be in line with previous increases and take into account that :
 - i) There was no central heating, and the night storage heaters were installed and paid for by the tenants
 - ii) The rent includes two hard standing parking spaces which they had used since 1989 and had now been given notice to clear – see paragraph 9 above
 - iii) The external store/workshop does not have power
 - iv) They had made a large number of changes at their own expense – most of which are referred to above but also include installing immersion heater and painting the windows and repairing the porch area.

- v) The property suffered from damp due to missing tiles on the roof and was uninsulated as they did not have access to the loft from the property. The property had been assessed in 2014 as Energy Efficiency Rating G.
18. At the start of the hearing the Chair explained that the rent determined by the rent officer was capped under the provisions of the Rent Acts (Maximum Fair Rent) Order 1999. Given the increase in RPI, the capped rent would now be higher than the previous capped rent. Should the tribunal determine that the market rent exceeded the newly calculated capped rent the fair rent determined by the tribunal would be higher. The tribunal wanted the parties to understand this and were given the opportunity to consider this and decided to proceed
19. At the hearing Mr Bragg referred to his written evidence in respect of the works that he had done to the property and said that he expected the increase to be similar to the last time.
20. He felt that comparables that the landlord had supplied were not like for like. They all had central heating, were insulated and had white goods supplied. They were energy efficient and close to amenities and he did not see how they could be taken into consideration.
21. His property did not benefit from good maintenance, there were roof tiles which had fallen into the garden, reoccurring damp and draughty single glazed windows

Representations – landlord

22. In his written evidence the landlord said that neither he nor a representative on his behalf had inspected the property in 20 years. He had referred to it as a three-bedroom property as he understood the previous tenants had used the dining room on the ground floor as a bedroom.
23. He accepted the tenant had installed the night storage heaters during his parents' time but there was no record as to 'financial responsibility'. He had been led to believe prior to their deaths that it was done by them but apologised if this was not so.
24. His concern in respect of the use of the 2 hard standing car spaces was the use of them for rough storage, which was causing offence to neighbours and now they were cleared the tenant was quite welcome to park there.
25. He didn't accept there was no power to the workshop/store and believed it was supplied by a neighbour.
26. He was not aware of issues with the roof and had asked a builder to inspect the property for works that are required.

27. He said that the property being situated in a gated community offered enhanced security and felt the rent set by the rent officer, whilst less than that requested, was reasonable.
28. In terms of comparable properties, they had let the next-door property, 37 The Platt, to a member of the tenants' family at a rent of £820 some two years ago. This was two bedrooms with no garage.
29. He had sent in a number of rental particulars for what he regarded to be examples of rental values locally. These were two and three bedroomed properties in the surrounding area. They were for the most part modern and/or refurbished and ranged in asking rents from £1,175 to £1,450 for the two-bedroom properties and £1,775 - £2,000 for the three-bedroom properties. He did not say which he felt were most comparable.
30. At the hearing he referred to the house being in the green belt and listed – and hence it was difficult to compare, with the best comparison being their letting of 37 The Platt. He said that it was a private agreement for an assured shorthold tenancy but that an agent had given a view.
31. In response Mr Bragg said that 37 The Platt had a range cooker, electric heating a log burner, and also had white goods – which Mr Macleod Matthews said he was surprised were included. Mr Bragg also understood the rent of £820 included water rates.

Determination

32. First, we need to determine the rent which the landlord could reasonably expect to obtain for the Property in the open market if it were let today in the condition and on the terms now usual for open market lettings.
33. The comparable properties produced by the landlord range in asking rents for the two bedroomed properties from £1175 to £1450 per calendar month. The most comparable in terms of character would appear to be a two bedroomed property on Old Common Road in Chorleywood which is a two bedroomed Victorian terraced property with a ground floor bathroom. It is said to be in excellent decorative condition but has only a courtyard garden to the rear. The asking rent was £1300 in November 2021. Then there is the letting of 37 The Platt, the property next to the subject property, to relatives of the tenants at £820 per month some two years ago. The landlord said that an agent had 'given a view' and did not suggest that the rent was in any way concessionary. However, this is very significantly lower than others on the market and it is unlikely that this is entirely accounted for by the location or the character of the property.
34. We have adjusted the adjacent property by 5% to allow for rental growth over the 2 years since letting and by 10% to account for the fact that it is smaller than the subject property and has no garage, to arrive at an equivalent rent of

the subject property of £947 per month. We attach more weight to this than to the property in Old Common Road but using our skill and experience, having regard to these and to the remaining comparables to which we attach much less weight, we arrive at an open market rental for the property in good condition of £1100 per calendar month

35. We then need to adjust this open market rent to disregard the improvements made by the tenant and to allow for their internal repairing obligations. The tenants have made some significant additions to the property including installation of the night storage heaters and log burner, improvements to the kitchen and bathroom and supply of carpets, curtains and white goods.
36. For this the tribunal has made an adjustment of £350 to arrive at a fair rent of £750 per calendar month.
37. We then considered whether there should be an adjustment for “scarcity” as referred to in paragraph 15 and decided that there was none in this area of Buckinghamshire.
38. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent, details of which are attached to the decision notice, or the Fair Rent decided by the Tribunal whichever is the lower.
39. The capped rent is £777.50 per month, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the tribunal of **£750 per month** is to be registered.

Name: Mary Hardman FRICS IRRV(Hons) **Date:** 13 April 2022

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).