



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

Case reference : **CHI/18UB/F77/2022/0012**

Property : **1 West Hayes Cottages, West Hill Road,
West Hill, Ottery St. Mary, Devon, EX11 1UZ**

Applicant : **Northumberland & Durham Property Trust
Ltd**

Representative : **Grainger Plc**

Respondent : **Mrs G.M. Rose**

Representative : **None**

Type of application : **Determination of the registered rent
Under Section 70 Rent Act 1977**

Tribunal member(s) : **Mrs J Coupe FRICS
Mr M Ayres FRICS
Mr P Smith FRICS**

Date of decision : **13 June 2022**

DECISION

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Covid-19 pandemic: Description of determination

This has been a remote determination on the papers which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote determination on papers. The documents that the Tribunal were referred to are in an electronic bundle, the contents of which have been noted. The order made is described below.

Decision of the Tribunal

On 13 June 2022 the Tribunal determined that a sum of £748.00 per calendar month will be registered as the fair rent, with effect from the same date.

Background

1. On 15 December 2021 the Landlord applied to the Rent Officer for registration of a fair rent of £787.75 per month for the above property.
2. The registered rent at the date of the application was £710.00 per month, registered on 11 February 2022, with effect from 12 March 2022.
3. On 9 March 2022 the Landlord objected to the registered rent.
4. The tenancy appears to be a statutory protected periodic tenancy commencing 1 September 1957. No copy of the tenancy agreement was provided however the Tribunal were advised that the tenant has covenanted to internally decorate the property.
5. On 5 April 2022 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No such objections were received.
6. The Directions required the Landlord and Tenant to submit their completed statements by 19 April 2022 (Landlord) and 3 May 2022 (Tenant) with copies also to be sent to the other party.
7. The Tribunal reviewed the parties' submissions and determined that it could fairly and reasonably proceed to a decision on the papers.
8. The matter was determined having regard to the evidence contained in the submissions and application.

Law

9. When determining a fair rent the Tribunal, in accordance with section 70 of the Rent Act 1977, must have regard to all the circumstances including the age, location and state of repair of the property. It also must disregard the effect if any of any relevant tenant's improvements and the effect of any disrepair or any other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
10. In *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee* (1995) 28HLR 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 to that of a regulated tenancy, and

That for the purposes of determining the market rent, assured tenancy market rents are usually appropriate comparables; adjusted as necessary to reflect any relevant differences between the comparables and the subject property.
11. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent may be increased to a maximum 5.00% plus Retail Price Index since the last registration.
12. Under paragraph 7 of the Order an exemption to this restriction applies where the Landlord proves that repairs or improvements undertaken have increased the rent by at least 15% of the previous registered rent.

The Property

13. As stated, and in accord with current Tribunal policy, the Tribunal did not inspect the property, instead relying on the parties' evidence and viewing the property via online portals.
14. The property is a semi-detached house within a rural location, approximately eleven miles east of Exeter. No further details on construction or age were provided.
15. The accommodation comprises two reception rooms, kitchen and utility on the ground floor and three bedrooms and a bathroom on the first floor. Externally, the property has a garage, car space and garden.
16. The property has double glazing and gas central heating.
17. White goods, carpets and curtains are supplied by the Tenant.

Submissions – Landlord

18. The Landlord made the following representations (summarised):
- a. The property is in a fair condition reflective of its age and type however;
 - b. The property does not meet modern standards of letting;
 - c. Unmodernised fitted kitchen – installed by the Tenant;
 - d. Unmodernised white bathroom suite installed by Landlord with shower over the bath;
 - e. The roof was replaced in 2018 at the Landlord's expense;
 - f. Double glazing and central heating are provided by the Landlord;
 - g. No service charge included in the rent;
 - h. There is a lack of similar properties available to rent in the immediate location;
 - i. Located approximately 4 miles east of Exeter;
 - j. Local amenities and transport links;
19. In support of a rent of £787.75 the Landlord relied on two comparable properties advertised for letting:
- a. **Shareford Way, Cranbrook:** Semi-detached house; 3 bedrooms; 2 bathrooms; garage; modernised; EPC Grade B; Asking rent £1,250 per month
 - b. **Weirfield Road, Exeter:** End-terraced house; 3 bedrooms; 1 bathroom; garage; newly refurbished; Exeter Quays 'on doorstep'; Asking rent £1,300 per month.
20. In arriving at a rental figure of £787.75 for the subject property, the Landlord adjusted the comparable lettings by applying deductions for the following: unmodernised kitchen and bathroom; lack of ground floor wc; lack of ensuite; lack of floor coverings and curtains; and Tenant's provision of white goods. Further deductions were applied to reflect the Tenant's improvements and tenancy obligations.

Submissions – Tenant (summarised)

21. The Tenant made the following representations (summarised):
- a. Mrs Jose has resided at the property for 64 years;
 - b. Her and her late husband maintained and decorated the property throughout this period;
 - c. The Tenant installed the central heating system prior to the current Landlord's ownership of the property; the Landlord has since replaced the boiler;
 - d. White goods are provided by the Tenant;
 - e. Kitchen cupboard, sink and worktop were installed by the Tenant over 15 years ago;
 - f. Wet room and stairlift were installed by East Devon District Council in 2018;

- g. Dampness reported to the Landlord in September 2021 remains unaddressed;
- h. Garage and summerhouse are Tenants' improvements;
- i. Located 11 miles east of Exeter, not 4 miles as the Landlord claims;
- j. Bus stop 0.5 mile; railway station 4.5 miles;
- k. Landlord's comparables are superior in terms of modernisation.

Determination

- 22. 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.
- 23. The Landlord provided two comparable advertised lettings in support of its valuation. The Tribunal found both comparables to be superior to the subject property in accommodation, condition, modernisation and provision of white goods, carpets and curtains.
- 24. The comparable property in Cranbrook is located within 6 miles of the subject. The comparable in Exeter is 11 miles distance. The Tribunal did not consider a city centre property a particularly useful comparable to a rural one, as such properties appeal to wholly different markets.
- 25. Having considered the rental evidence supplied by the Landlord, supported by its own general knowledge of rental values locally, the Tribunal concluded that the likely market rent for the property would be £1,100 per month.
- 26. However, it was first necessary to adjust the hypothetical rent of £1,100 per month to allow for the differences between the terms and condition considered usual for such a letting and the condition of the actual property at the valuation date, ignoring any tenant's improvements.
- 27. The Tribunal noted that properties available on the open market were modern or modernised, centrally heated and with white goods, floor and window coverings. In contrast, the kitchen of the subject property is over 15 years old and was provided by the Tenant, whilst the white goods, carpets and curtains are provided by the Tenant. The Tenant is also responsible for internal decoration. Accordingly, the Tribunal make the following deductions:

a. Kitchen: dated & provided by Tenant	10%
b. Tenant's central heating installation	7% *
c. Tenant's floor coverings & curtains	5%
d. Tenant's white goods	5%
e. Internal redecoration liability	5%

*Reduced from a 10% adjustment to reflect the Landlord's boiler installation.

28. Deducting a total of 32% the Tribunal arrived at an adjusted rent of £748.00 per month.
29. The Tribunal then considered the question of scarcity as referred to in paragraph 10 above and, in arriving at its decision, took into account the following:
 - a. The Tribunal interpreted the 'locality' for scarcity purposes as being the whole area of East Devon (i.e. a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent;
 - b. Availability of property to rent;
 - c. Local Authority and Housing Association waiting lists;
 - d. House prices which could be an indicator of increased availability of housing and a reduction in scarcity;
 - e. Submissions of the parties;
 - f. The members of the Tribunal have between them many years of experience of the residential letting market and that experience, coupled with the above, leads them to the view that there is currently no shortage of similar flats to let in the locality defined above.
30. Accordingly, the Tribunal made no deduction for scarcity.

Maximum Fair Rent

31. This is the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice.
32. The Rent Acts (Maximum Fair Rent Order) 1999 restricts the amount by which the rent may be increased to a maximum 5% plus RPI since the last registration.
33. The only exception to this restriction is provided under paragraph 7 of the Order where a landlord carries out repairs or improvements which increase the rent by 15% or more of the previous registered rent. Neither of these circumstances apply in this instance.
34. The rent to be registered is not limited by the Fair Rent Acts' (Maximum Fair Rent Order) 1999 because it is below the maximum fair rent that can be registered of £819.50 per calendar month prescribed by the Order.
35. The Tribunal accordingly determines that the lower sum of £748.00 per calendar month is registered as the fair rent with effect from 13 June 2022, that 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.