



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

**Case Reference** : **CHI/00HE/F77/2022/0014**

**Property** : **5 Tregarth  
Penwithick  
St Austell  
Cornwall  
PL26 8UD**

**Applicant/Landlord** : **Northumberland and Durham Property  
Trust Ltd**

**Representative** : **Grainger Plc**

**Respondent/Tenant** : **Mrs M J Stephens**

**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 M J F Donaldson FRICS MCI Arb MAE  
Mr M C Woodrow MRICS**

**Date of Inspection** : **None. Determined on the papers**

**Date of Decision** : **25th May 2022**

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**DECISION**

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## **Summary of Decision**

On 25<sup>th</sup> May 2022 the Tribunal determined a fair rent of £1,800 per quarter with effect from 25<sup>th</sup> May 2022. This equates to £600 per month.

## **Background**

1. On 15<sup>th</sup> December 2021 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £1,983.75 per quarter for the above property. This equates to £661.25 per calendar month.
2. The rent was previously registered on the 5<sup>th</sup> February 2020 at £1,725 per quarter from 3<sup>rd</sup> March 2020 following a determination by the Rent Officer. This equates to £575 per calendar month.
3. The rent was registered by the Rent Officer on the 10<sup>th</sup> February 2022 at a figure of £1,800 per quarter with effect from the 3<sup>rd</sup> March 2022. This equates to £600 per calendar month.
4. By a letter dated 9<sup>th</sup> March 2022 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. Within the papers supplied the property is described as a mid-terrace house with accommodation comprising a Living Room and Kitchen on the ground floor, two Bedrooms and a Bathroom with WC on the first floor. Outside there is a Garage and Garden.

10. The Property is situated in the village of Penwithick located just to the north of St Austell. Limited local amenities are available in the village with further shopping and schooling facilities in St Austell, together with a mainline Railway Station.
11. The Energy Performance Rating for the property is 'E'.

### **Evidence and representations**

12. It is stated that the property has double-glazed windows, heating is provided by three-night store heaters, that the carpets, curtains and white goods are all provided by the Tenant, that the Bathroom is unmodernised, that the Kitchen was fitted by the Tenant and that the Tenant is responsible for internal decorations.
13. Some photographs were submitted from which it appears the property has rendered elevations beneath a slate roof. Internal photographs show the property to be in reasonable repair.
14. 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**

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. 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.
19. 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. Open market rentals are usually quoted, and properties let, on the basis of a monthly rental figure.
20. The Tribunal 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 mid Cornwall. Having done so it concluded that such a likely market rent would be £825 per calendar month.
21. However, the property was not let in a condition considered usual for a modern letting at a market rent. Based on the knowledge of its members the Tribunal is aware that the market for this type of property is very sensitive to condition and inventory. Therefore, it was first necessary to adjust that hypothetical rent of £825 per calendar month particularly to reflect the Tenants' improvements and responsibilities, and 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.
22. The Tribunal therefore considered that this required a total deduction of £225 per month made up as follows:

Lack of central heating	£80
Tenant's provision of carpets	£25
Tenant's provision of curtains	£10
Tenant's provision of white goods	£30
Tenant's decoration liability	£30
Unmodernised Bathroom	£20
Tenant's fitting of Kitchen	£30
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TOTAL	£225

23. The Tribunal did not consider that there was any substantial scarcity element in the area of mid Cornwall.

**Decision**

24. 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 £600 per calendar month, which equates to £1,800 per quarter.
25. 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.

**Accordingly, the sum of £1,800 per quarter will be registered as the fair rent with effect from the 25<sup>th</sup> May 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](mailto: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.