



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

Case reference : **CAM/38UE/F77/2022/0008**

HMCTS code : **P:PAPERREMOTE**

Property : **The Shambles Lower Common
Uffington Faringdon Oxon SN7 7SQ**

Applicants (Landlord) : **A J Matthews and Son**

Respondent (Tenant) : **John Gibbons**

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

Tribunal members : **Mary Hardman FRICS IRRV(Hons)**

Date of decision : **21 July 2022**

DECISION

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 documents that I was referred to are as submitted by the Applicant and the Respondent. I have noted the contents and my decision is below.

Decision

The tribunal determined a fair rent of £96.50 per week

Reasons

Background

1. On 26 January 2022 the landlord made an application to register the rent of the property at £800 per month
2. On 25 March 2022 the Rent Officer registered a Fair Rent of £90.50 per week , inclusive of services of £2.30 per week with effect from the same date. This was in lieu of the previous registered rent of £25 per week from 7 August 1984. However, it appears that the tenant was paying a rent of £450 per month from 2015.
3. The Landlord objected, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 11 May 2022, 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 20 July 2022. The tenant, Mr Gibbons was present at the inspection as was the landlord, Mr Matthews.
6. The Property is a pre-1900 two-bedroom semi-detached property of brick construction with a thatched roof.
7. There is a garden to the front and enclosed private garden to the rear. It is in a semi-rural setting with open aspect to the front.
8. The accommodation comprises a living room, kitchen and bathroom to the ground floor and two bedrooms to the first floor. Access to the second bedroom is via the main bedroom.
9. The bathroom, which is a later addition to the side of the property suffers from damp and the walls and ceiling are extensively stained from mould growth. The tenant reports that he has replastered this on several occasions.
10. The property has a Rayburn in the kitchen which heats the water and powers two radiators in the bathroom and on the first floor. There is an open fireplace in the lounge but no other fixed heating.

11. The kitchen units and appliances were all supplied by the tenant apart from the Rayburn – which he has rebuilt and added the two radiators.
12. It has single glazed windows which are in poor condition and parts of the front door are also rotten.
13. There is evidence of patch repairs to the thatched roof to the neighbouring semi but the roof to the subject property has no obvious holes and there is no evidence of water ingress to the first floor ceilings.
14. The tenant reports that he has rebuilt the stairs to the first floor as they were too steep.
15. There is parking to the side of the property and off-road parking adjacent.
16. The carpets, floor coverings and curtains were provided by the tenants.

The law

17. 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.
18. 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.
19. 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

20. The tenants, in their written submission said that they felt that the rent proposed was excessive based on:
 - i) The thatch needed replacing and was affected by rats which he had tried to get under control via the use of rat bait. There were deep depressions where it had sunk. Slippage on his neighbour's side suggested that the roof joists had rotted.

- ii) The neighbour's wall was bowed with cracks appearing and as both cottages were joined, he felt it could pull down both properties.
 - iii) The chimney did not have spark excluders as required and the kitchen chimney needed repointing and needed a ceramic lining
 - iv) All the windows needed attention with four needing complete replacement whilst the others needed inserts replaced.
 - v) The front door needs replacement as it was falling apart. He had already replaced two at his own expense. He had repainted the whole of the exterior three times
 - vi) The electrical wiring had never been officially inspected nor given certificate in 38 years
 - vii) The bathroom and toilet had three exposed outside walls with no insulation to the walls or ceiling. He had paid to have it replastered on four occasions. The walls and ceiling got covered in black mould which was impossible to get rid of despite having a heater and heated towel rail.
 - viii) He had installed an electric shower at his own expense.
 - ix) The septic tank which had been recently installed did not have the required overflow into a soak away or filtered into a separate tank. This meant that raw sewage ran straight into the front ditch meaning they had an open sewer in the front of the house.
 - x) He had replaced floorboards and had a qualified electrician replace the house wiring. He had rebuilt the Rayburn so it could supply hot water and heating via two radiators.
 - xi) He had removed the plasterboard to the walls which increased the ceiling height and exposed the original beams.
 - xii) He had put up the garden sheds, temporary building to the rear of the property and greenhouse.
21. The village in which the property was situated was very rural with no public transport. The nearest shopping was 5 miles away with the doctors and hospital 22 miles away.

Representations – landlord

22. In his written submission the landlord said he accepted the thatch on both cottage roofs needed repair and a temporary repair had been done last winter. A full re thatch, costing £40,000 had been ordered but the thatcher could not start until this autumn.

23. He was not aware of the tenant's concerns regarding the chimney and did not accept that the tenant had repainted the exterior three times at his own expense
24. The wiring was inspected in October 2020 by a professional electrician and a copy of the electrical installation condition report dated 3 October 2020 was supplied .
25. The bathrooms for both houses were added under a local authority grant and built to the specifications required to comply. He said there is no problem with the bathroom next door and felt that it sounded like a ventilation problem, but he had never been asked to see it
26. The new sewage system was fitted to the next house up last winter and fully approved. It was professionally installed, and he felt that Mr Gibbons comments had no basis.
27. They had offered to replace the solid fuel Rayburn, but the tenant wanted to keep it.
28. The landlord had very rarely been inside the house during the period of the tenancy and had no idea of its condition or what work had been done.
29. They had obtained a valuation for letting purposes from a local firm of surveyors who had valued the property at between £1000 and £1200 per month. They noted that it needed upgrading but did not say whether their estimate reflected the position before, or after, the work had been completed.
30. The rent had increased without reference to the rent officer some time after the registration to £350 and then to £450.

Determination

31. 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.
32. Neither party supplied any comparables. The landlord supplied a rental valuation of £1000- £1200 but as set out above they noted that the property needed upgrading but did not say whether their estimate reflected the position before, or after, the work had been completed. They also did not provide any evidence to support their valuation.
33. In the absence of any comparable evidence the tribunal has taken into account the valuation provided and has used its own skills and knowledge to arrive at an estimate of the open market value of the property in good condition of £900 per month or £208 per week.

34. We then need to adjust this open market rent to reflect the condition of the property, to disregard the improvements made by the tenant and to allow for their internal repairing obligations.
35. This is a visually attractive property in a quiet setting on the edge of a village but is in a fairly poor state of repair and must be regarded as unheated bar for the open fire. The tenant has done any updating and upkeep over a long period.
36. To reflect the condition, lack of heating, absence of white goods, carpets and curtains and disregarding the tenants improvements, the tribunal has made an adjustment of £80 per week to arrive at a fair rent of £128 per week .
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 Oxfordshire.
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 fact that there is a passing rent of £450 is not relevant to this calculation. The tribunal are required to start from the previous registered rent of £25 per week and apply the required adjustments as set out on the attached calculation sheet.
40. The capped rent is £96.50 per week, inclusive of the services of £2.30 per month which is for emptying the septic tank. This is a fixed service charge and is therefore included in the rent. This is lower than the rent assessed by the Tribunal as set out above.
41. Therefore, the rent determined by the tribunal of **£96.50 per week** is to be registered.

Name: Mary Hardman FRICS IRRV(Hons) **Date:** 21 July 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).