



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

**Case Reference** : **MAN/32UC/F77/2020/0063**

**Property** : **Church Cottage, Driby., Alford,  
Lincolnshire, LN13 0BS**

**Applicant** : **South Ormsby Estate**

**Representative** : **Mr Paul Barnes, Estate Manager**

**Respondent** : **Mr Charles Edwin Roper**

**Representative** : **In Person**

**Type of Application** : **An application to determine a fair  
rent pursuant to s.70 Rent Act 1977**

**Tribunal Members** : **Tribunal Judge J. E. Oliver  
Tribunal Member Mr P. Mountain  
(Valuer)**

**Date of Determination** : **11<sup>th</sup> April 2022**

**Date of Decision** : **11<sup>th</sup> April 2022**

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**DECISION**

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## **Decision**

1. The fair rent for 7 Church Cottage, Driby (“the Property”) is £390 per calendar month, effective from 11<sup>th</sup> April 2022.
2. This rent is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 (“1999 Order”).
3. The rent for the Property would otherwise have been in the sum of £442.50 per calendar month.

## **Application**

4. By an application dated 20<sup>th</sup> April 2020, Mr Bernard Charles Hallgarth, the then Landlord of the Property, applied to the Rent Officer for the re-registration of a fair rent in respect of the Property.
5. On 6<sup>th</sup> October 2020 Mr Hallgarth retired and the tenancy of the Property reverted to South Ormsby Estate (“the Respondent”) who assumed responsibility for the application
6. The tenant of the Property is Mr Charles Edwin Roper (“the Applicant”).
7. On 12<sup>th</sup> October 2020 the Rent Officer determined the rent for the Property in the sum of £400 per calendar month, including a service charge of £6.00 per calendar month, effective from 12<sup>th</sup> October 2020.
8. The Applicant objected to the registered rent and on 15<sup>th</sup> December 2020 the Rent Officer referred the matter to the Tribunal for appeal. The issues for determination are the amounts registered for both the rent and the service charge.
9. An inspection of the Property was required before the application could be determined, but due to the restrictions caused by the Coronavirus pandemic, that could not take place until those were removed.
10. The Tribunal inspected the Property on 11<sup>th</sup> April 2022.
11. The Tribunal received written representations from both parties.
12. Neither party requested a hearing.

## **The Property**

13. The Property is a three bedroomed semi-detached cottage in rural Lincolnshire. It is within a small hamlet and near a working farm. It comprises a kitchen, living room, downstairs bathroom, together with three bedrooms. There are gardens to both the front and rear that contain several sheds belonging to the Applicant. There is no garage. The Applicant has erected a lean-to at the rear of the Property that covers the only entrance to it.
14. The Applicant confirmed a new kitchen was installed in 2013 that provided both base and wall units and kitchen surfaces. There is a Rayburn but which is in a poor state of repair. All the white goods, including an electric oven belong to the Applicant. The tiled flooring was provided by the Landlord but has been in place for more than 40 years. The remaining floor coverings and soft furnishings at the Property belong to the Applicant.
15. The Respondent installed a new central heating boiler in February 2022.

16. The bathroom has an old suite comprising a toilet, washbasin and bath, with tiling around the bath. There is a shower over the bath, installed by the Applicant.
17. The windows in the Property are all wooden framed single glazed units, save for the bathroom window that is double glazed. All the windows are in disrepair. The glass in the bathroom window is cracked. All the window frames are rotten and have been filled by the Applicant and all require replacement. There is only one entrance to the Property and that has a wooden entrance door.
18. The Applicant complained the gutters had not been cleared for several years; the Tribunal found evidence of this by vegetation growing in the gutters. The Tribunal also saw evidence of slipped slates on the roof and noted that all the brickwork requires re-pointing.

### **The Law**

19. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977 (the Act), section 70,
  - (1) has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
  - (2) disregards the effect of the rental value of the property of (a) any relevant tenant's improvements and (b) any disrepair or other defects attributable to the tenant or any predecessor in title under the regulated tenancy;
  - (3) assumes (as required by s. 70(2) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed supply of such properties to rent. In other words that the effect of such "scarcity" on rental values is not reflected in the fair rent of the subject property.
20. In *Spath Homes 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 that section 70 means:
  - (a) that ordinarily a fair rent is the market rent for the subject property discounted for "scarcity" and
  - (b) that the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables. These rents may be adjusted where necessary to reflect any relevant differences between those comparables and the subject property.
21. Thus, once the market rent for the property has been determined by the exercise in (2) above that rent must be adjusted, where necessary, for any scarcity.

### **Submissions**

22. In his submissions to the Tribunal, the Applicant confirmed there was no garage at the Property, to which reference had been made. Further, he objected to a service charge imposed by the Rent Officer when determining the rent.
23. In its submissions the Respondent advised that a new sewage treatment plant had been installed for the benefit of Property and the adjoining property following changes in government policy. An agreement signed between the parties in October 2018 confirmed the Applicant's agreement to this and that

the new plant would require an electricity supply. At installation the Applicant was advised the electricity supply would be charged to the Property. It was therefore agreed the Applicant would be refunded the cost of the electricity twice yearly. The Tribunal was provided with correspondence to show half the cost was refunded to the Applicant.

24. At the inspection the Applicant confirmed this agreement but was uncertain whether the amount of the refund equated to the full cost of the electricity or not.

### **Calculation of fair rent**

25. The Tribunal noted that in making their submissions, neither party provided any information of market rents in the locality of the Property. It had the benefit of rent comparables used by the Rent Officer, but this was limited to the number of bedrooms within the L13 postcode and provided no details regarding the accommodation. Further, the information related to the time of the rent determination in 2020 and was therefore out of date in the current market.

26. In determining the open market rent for the Property and in the absence of relevant market evidence, the Tribunal relied upon its own knowledge and experience of the lettings market, taking into account the unique location and features of the Property. In doing so, it considered this to be in the sum of £550 per calendar month.

27. In accordance with s.70 of the Act there has to be deducted from the market rent an amount for the lack of carpets and curtains not included within the tenancy, white goods, tenant's improvements and disrepair. Here, the Tribunal considered that to bring the Property to modern standards it would require new double-glazed units throughout, a new bathroom, a new entrance door and the kitchen would also require upgrading. There was landlord's neglect to include the slipped slates, re-pointing and the clearance of the guttering. These are calculated as follows:

Lack of carpets/curtains/white goods	£30.00
Tenants Improvements-	£0.00
Landlord's neglect	£30.00
Double glazing	£50.00
Necessary Improvements	£50.00
<b>TOTAL</b>	<b><u>£160.00</u></b>

28. The Tribunal did not consider there to be any scarcity applicable to the area.

29. The market rent for the Property is therefore in the sum of £390.00 per calendar month.

30. The Tribunal considered the service charge added to the rent by the Rent Officer at the last registration and determined this should be removed. A service charge is an obligation for the tenant to pay to a landlord an amount for costs incurred by him. In this case, that is not the position, the Respondent refunding the Applicant costs relating to the treatment plant. Accordingly, the service charge is to be removed from the Rent Register.

31. The Tribunal then applied the 1999 Order to determine the maximum fair rent to be registered. The calculation for this is given below. This is less than the amount prescribed by the 1999 Order and therefore does not apply.

32. The rent to be registered for the Property is £390 per calendar month effective from 11<sup>th</sup> April 2022.

**Maximum Fair Rent Calculation**

Latest RPI- February 2022	320.2
Previous RPI – July 2017	272.9
Difference	47.3
47.3 divided by 272.9 =	0.17332
Add 1.05 =	1.122332
Last registered rent £361.50 x 1.10971 =	£442.23
Rounded to nearest 50p =	£442.50
<b>TOTAL</b>	<b>£442.50</b>

