



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

Case Reference : **CAM/22UG/F77/2022/0014
P:PAPERREMOTE**

Property : **2 Station Cottages, Spring Gardens
Road, wakes Colne, Colchester, CO6
2DR**

Applicant : **Mrs S O Villiers-Smith**

Respondent : **Mrs S Letch**

Date of Application : **20 June 2022**

Type of Application : **Determination of the registered rent
under Section 70 Rent Act 1977**

Tribunal : **Mrs E Flint DMS FRICS**

**Date and venue of
Hearing** : **5 September 2022 hearing on the
papers following an inspection**

DECISION

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that we were referred to were in a paper bundle, the contents of which I have recorded.

The registered rent with effect from 5 September 2022 is £135 per week.

Background

1. On 12 April 2022 the landlord applied to the rent officer for registration of a fair rent of £145 per week for the above property.
2. The registered rent at the date of the application was £129 per week which had been determined by the Tribunal on 8 July 2019 with effect from the same date.
3. On 1 June 2022, the rent officer registered a fair rent of £130 per week with effect from the same date.
4. On 20 June 2022 the landlord objected to the registered rent.
5. Prior to the hearing written representations were received from both the landlord and the tenant.
6. The Tribunal inspected the property on the morning of 5 September, a dry, sunny and warm morning.
7. The address on the register should be amended as the terrace has been known as Station Cottages for approximately 50 years.

The Evidence

8. The landlord was of the opinion that the open market rental value of the house was £1050 per month, deducting £200 per month for lack of modern facilities, carpets, curtains and white goods would give an open market rent of £850 per month, a further deduction of 10% for scarcity would result a fair rent of £765 per month or £176 per week.
9. The adjacent house had been let in 2019 for £900 per month. RPI had increased by 13.5% since then which would support a rent of £235 per week. Making the same adjustment as above would give a rent of £170.60 per week.
10. A property offering similar accommodation in Earls Colne was on the market for £1050 per month. It had a poorer outlook than the subject property and a shower room rather than a bathroom. Deducting as above this supports a rent of £176 per week.
11. The landlord considered that the rent officer had not fully reflected the benefit of the size of the garden and rear yard area, allowing vegetables to be grown, since post lockdown open space is at a premium.
12. The registered rent should at least £145 per week as requested in the application.
13. The tenant stated that although the main structure is reasonable the dormer window to the front is in poor condition and requires attention to prevent water ingress. The bare minimum of work was undertaken to convert the bathroom into a shower room. Access to the valve to shut off the water supply was blocked off when the kitchen units were fitted. The landlord did not supply the wall tiling. There is dampness in the kitchen, the tenant considers that the extractor fan is in the wrong

position. The garage is in very poor condition. Externally the house has not been painted for many years.

14. The next door house which the landlord has referred to is fully modernised with a kitchen extension and is fully maintained by the landlord.

The Inspection

15. Spring Gardens Road, is a rural road on the outskirts of the village. The village centre providing a bus route, local shop, public house and primary school are under a mile from the property.
16. The property which is over 100 years old, is one of a terrace of four former agricultural workers cottages, overlooking fields to the front, with long gardens to the rear. Parking is within the rear garden of each property. The subject property has a garage which is in very poor condition, the wooden frame to the up and over door is rotted and disintegrating and the roof is propped up internally. The shared driveway cuts the rear garden into two sections. The rear boundary of the garden abuts the boundary of the East Anglian Railway Museum.
17. Externally the house is in only fair condition: there are a number of missing, slipped or cracked roof tiles and a section of timber is missing from the cheek of the dormer window at the front of the house. The front door is poorly fitted. Areas of brickwork on the back addition are crumbling.
18. The house is centrally heated via an oil fed boiler which is situated outside near the back door. The pipework feeding the boiler leaks, the tenant has taped the crack however there was a very strong smell of oil nearby. The windows throughout are double glazed.
19. The accommodation comprises on the ground floor a through living room, kitchen and shower/wc and on the first floor two small double and one single bedroom. The kitchen is dated with limited storage and worktops and surface mounted pipework, there is mould at various points on the side and rear wall. The wc and wash hand basin in the shower room were in situ in 1968 when the tenant moved into the house. The radiators throughout are fed by surface mounted pipes. The tenant had provided wall tiling in the kitchen and shower room. All carpets, curtains and white goods are the tenants.

The Law

20. 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.

21. 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:

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.

Valuation

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 and on the terms that is considered usual for such an open market letting. The Tribunal relied on the evidence of the landlord and its own general knowledge of rental values in the villages in the surrounding area and concluded that the likely market rent for the property would be £240 per week.
23. However, it was first necessary to adjust the hypothetical rent of £240 per week 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, (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Tribunal noted that properties available on the open market were modern or modernised, with white goods, floor and window coverings, The Tribunal determined that a deduction of £90 per week should be made to reflect the fact that the house is essentially unmodernised, some dampness and disrepair, without floor and window coverings or white goods.
24. This leaves an adjusted market rent for the subject property of £150 per month. The Tribunal was of the opinion that there was substantial scarcity in Essex for similar properties and therefore made a deduction of 10% from the adjusted market rent to reflect this element. The Tribunal's uncapped fair rent is £135 per week.

Decision

25. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was accordingly £135 per week which is below the maximum fair rent of £159.50 per week under the Rent Acts (Maximum Fair Rent) Order 1999.
14. Accordingly, the sum of £135 per week will be registered as the fair rent with effect from 5 September 2022 being the date of the Tribunal's decision.

Dated: 36 September 2022

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.

