



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)

Case Reference : CAM/OOKC/F77/2022/0017

Property : 13 Marquis Hill. Shillington, Bedfordshire,
SG53HD

Applicant : Roger Simpkins

Respondent : Margaret Jepps

Type of Application : Appeal against a fair rent set by the Rent Officer.

Tribunal Member : Judge Shepherd
: Marina Krisko FRICS

Date of Reasons : 15th September 2022

Reasons

Background

1. On 12th January 2022, the landlord applied to the Rent Officer for registration of a fair rent of £950 per calendar month.

2. The rent payable at the time of application was £558.43 per calendar month but this was not a registered rent and appears to have been agreed between the parties. The last registered rent was £275 per calendar month set in on 12th October 2004. It is not clear when the rent was increased to £558.43 or if there were other increases between 2004 and the current date. It seems likely that the tenant has overpaid rent because an increase outside the 1977 Act is not valid. On the 19th December 2020 the Rent Officer registered a fair rent of £502.67 per calendar month.

5. On 11th July 2022 the tenant objected and the matter was referred to the Tribunal.

6. The Tribunal inspected on 23rd September 2022. The Tribunal also considered the parties' submissions and information on the rent register.

Description of premises

7. Marquis Hill , Shillington, Bedfordshire, SG53HD ("The Premises") is an end terrace cottage with a tiled roof, UPVC gutters and brick/wattle and daub walls. Originally it had quarry tiled floors laid on earth. The location is rural with few local facilities.

8. The tenant had carried out a number of improvements during his long occupation including: installing central heating (including the gas connection from the road), new floors, double glazing, fireplaces, some ceilings were replaced, a complete new kitchen was installed and an additional conservatory was constructed.

9. The landlord has replaced the tenants boiler, the front door, some windows, updated the electrics, and insulated the roof space.

10. Under the terms of the tenancy the landlord is liable for external repairs and decoration, and the tenant liable for internal repairs and decorations

11. All carpets, curtains and white goods were provided by the tenant.

The Law

12. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard 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. That section also requires the Tribunal not to take into account the personal financial and other circumstances of the tenant.

13. Ordinarily, a fair rent is the market rent for the subject property discounted for 'scarcity' (i.e. that element, if any, of the market rent that is attributable to there being a 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).

14. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee (1955) 28 HLR 107* and *Curtis v London Rent Assessment Committee (1999) QB 92* the Court of Appeal emphasised that section 70 means that:

15. Ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' and

16. 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 these comparables and the subject property).

Determination and Valuation

17. 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. I.e. with carpets, curtains, white goods and in good decorative condition, and with the tenant having some internal repairing obligations.

18. The Tribunal considered the market in the area where the property is situated from its own general knowledge, and had regard to the rents provided by the Rent Officer.

19. The Tribunal found that the market rent for the property in good condition on Assured Shorthold Tenancy would be in the region of £230 per week or £996 pcm.

20. However, this is on the basis of a modern open market letting. The Tribunal adjusted the market rent to reflect the age and condition of the premises. A 40% deduction was considered appropriate. The Tribunal arrived at an adjusted market rent of £138 per week or £598 per calendar month. This reflects the rent level that would be needed to attract a tenant.

21. The Tribunal then considered the question of scarcity. We were not provided with any specific evidence on this issue therefore the Tribunal relied upon its general knowledge and experience, and considered a large area of Mid and South Bedfordshire and North Hertfordshire and part of Cambridgeshire. We made a further deduction of 15% making a rent of £117.30 per week or £508.30 pcm.

21. This is below the maximum fair rent that can be registered by virtue of the Rent Acts (Maximum Fair rent) Order 1999, (details provided on the back of the decision form).

Judge Shepherd

29th September 2022