



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

**Case Reference** : **CHI/18UB/F77/2022/0034**

**Property** : **Pithead  
Marsh Green  
Exeter  
Devon  
EX5 2HE**

**Applicant** : **Mr W J Ratcliffe**

**Representative** : **Ms F Ratcliffe**

**Respondent** : **Mrs M Watkins**

**Representative** : **Strutt & Parker**

**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 S J Hodges FRICS**

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

**Date of Decision** : **3<sup>rd</sup> October 2022**

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**DECISION**

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## **Summary of Decision**

On 3<sup>rd</sup> October 2022 the Tribunal determined a fair rent of £1,710 per quarter with effect from 3<sup>rd</sup> October 2022.

## **Background**

1. On 20<sup>th</sup> April 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £2,250 per quarter for the above property. This would equate to £750 per month. This would be the first registration of rent for the property.
2. The rent was registered by the Rent Officer on the 21<sup>st</sup> June 2022 at a figure of £1,950 per quarter which equates to £650 per month.
3. By a letter dated 19<sup>th</sup> July 2022 the Tenant 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.
4. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
5. 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.
6. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.
7. The parties were invited to include photographs and video within their representations if they so wished. Detailed representations were made which were copied to both parties.

## **The Property**

8. Within the papers the property is described as a listed, thatched, Devon farmhouse. It is situated some 9 miles north-east of Sidmouth and 14 miles east of Exeter, within the small village of Marsh Green. All amenities are a car ride away.
9. The accommodation is described in the Application Form as having 4 Bedrooms, 3 Reception rooms, a Kitchen, Bathroom and Utility room. A floorplan shows Bedrooms one and two with access from a Landing, an occasional Bedroom/Store accessed through Bedroom two, and a Boxroom accessed through a second staircase from the Utility room.

10. Outside there is a lean-to shed with a WC, garage, outbuildings and gardens of 1/3<sup>rd</sup> acre which include a tennis court.
11. The property has no central heating or double glazing. The Tribunal could not find an Energy Performance Certificate for the property.

### **Evidence and representations**

12. The original tenancy agreement for the property was for 7 years commencing 1<sup>st</sup> January 1974 at a rent of £9 per week. The Tenant is responsible for internal and external decorations. A separate tenancy agreement for grazing rights on some 2.929 acres of land for the period 1<sup>st</sup> January 1974 to 24<sup>th</sup> December 1974 was also entered into by the parties. This agreement to graze to be repeated for 7 years until 24<sup>th</sup> December 1981 and thereafter from year to year.
13. The Rent Officer attended a consultation and inspected the property on 16<sup>th</sup> June 2022 and explained that as the additional land was held under a separate grazing lease agreement it could not be included in the assessment of the Fair Rent.
14. Within the Application for Registration of the Fair Rent the present rent is stated by the Landlord's Agent to be £900 per quarter. The Tenant states that the rent passing is £750 per quarter.
15. The Rent Officer had inspected the property on 16<sup>th</sup> June 2022. The Tenant stated that the property "was almost uninhabitable" when the tenancy began, and she submitted a list of works carried out over a period of nearly 50 years. The works are extensive and include; refurbishment of the downstairs toilet including roof repairs and new fittings; new roof window and door to dog room; damp proofing and timber treatment within dining room; complete refurbishment of kitchen including new units and replacement of broken Aga cooker which was later converted to oil-fired; installation of two wood burners, new decoration in sitting room; refitting bathroom with all new ceramic ware; new vanity unit in bedroom two; windows replaced in bedroom three; new windows to bedroom four, known as the boxroom; insulation to the attic; rebuild the porch and extensive works to the gardens and outbuildings.
16. All carpets, curtains and white goods are provided by the Tenant.
17. The Tenant's Agent submitted a list of repairs paid for by the Landlord between 1984 and 2014.
18. The Tribunal was provided with many photographs of the property showing works carried out by the Tenant and the present state of repair of some items.
19. The Tenant also provided 4 letters bearing witness to the condition of the property when they took occupation and the improvements that they have

carried out over many years and confirming that at the start of the tenancy the property was almost uninhabitable.

20. 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**

21. 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.
22. 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).
23. 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**

24. 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.
25. 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. It 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 South Devon which are usually expressed as a monthly figure. Having done so it concluded that such a likely market rent would be £1,750 per calendar month.

26. However, the property was not let in a condition considered usual for a modern letting at a market rent. Therefore, it was first necessary to adjust that hypothetical rent of £1,750 per calendar month particularly to reflect the Tenant's improvements, the fact that the carpets, curtains and white goods were all provided by the Tenants, which would not be the case for an open market assured shorthold tenancy, and the ongoing responsibility for both internal and external decoration.
27. The Tribunal therefore considered that this required a total deduction of £1,180 per month made up as follows:

Lack of central heating	£250
Tenant's installation of kitchen	£200
Tenant's installation of bathroom	£100
Tenant's provision of carpets and curtains	£100
Tenant's provision of white goods	£30
Tenant's liability for internal and external decoration	£100
General repairs/improvements carried out by tenant	£400
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TOTAL per month	£1,180

28. The Tribunal did not consider that there was any substantial scarcity element in the area of South Devon.

### **Decision**

29. 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 £570 per calendar month which equates to £1,710 per quarter.
30. The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because this is a first registration of rent for the property.

**Accordingly, the sum of £1,710 per quarter will be registered as the fair rent with effect from the 3<sup>rd</sup> October 2022 this 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.