



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

Case Reference : **CHI/00HE/F77/2022/0042**

Property : **Little Treskello
Plain-An-Gwarry
Marazion
Cornwall
TR17 0DU**

Landlord : **Trevarthian Farm**

Representative : **St Aubyn Estate**

Tenant : **Mr P Fox**

Representative : **None**

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 N I Robinson FRICS
Mr P E Smith FRICS**

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

Date of Decision : **15th December 2022**

DECISION

Summary of Decision

On 15th December 2022 the Tribunal determined a fair rent of £425 per calendar month with effect from 15th December 2022.

Background

1. On 14th April 2022 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £600 per month calendar month for the above property.
2. The rent was last registered on the 20th September 2017 at £366 per month following a determination by a First Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee. This included £20 per month for services prescribed by the Order.
3. The rent was registered by the Rent Officer on the 24th June 2022 at a figure of £415 per month with effect from the same date.
4. By a letter dated 8th September 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.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
6. The Tribunal office issued Directions on 1st November 2022 informing 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.
7. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.
8. The parties were invited to include photographs and video within their representations if they so wished. No representations were received from either party.

The Property

9. Within the papers provided the property is described as a chalet bungalow built between 1945 and 1964 containing one Living Room, Kitchen, Bedroom and Bathroom. Outside there is a store and garden.
10. The property is situated in a rural setting about 1¼ miles north-east of Marazion where there are shops which provide most day-to-day

requirements. The town of Penzance is about 7 miles away where there is a wider range of amenities and facilities.

Evidence and Representations

11. The original furnished tenancy began on 3rd September 1988 and included furniture and contents described in an inventory.
12. The Rent Register states that the property is without central heating. The Application from the Landlord's Agent states that the Tenant is responsible for internal repairs and has installed a Porch and an alcove.
13. The Tenant states that the bedroom measures only 7' x 7', that the kitchen and bathroom are inadequate and that he pays for the ongoing cost of a Radon extractor fan.
14. The Tenant also states that the steps to the property are dangerous and refers to the portion of his pension taken in paying the rent.
15. The Energy Performance Certificate rating for the property as 'E'.
16. The Rent Officer had assessed the 'open market rent' for the property in the sum of £575 per month and had then applied deductions in the total sum of £160 per month, arriving at the registered rent of £415 per month.
17. Neither party provided evidence of comparable rental values in the area so the Tribunal could only rely on its own knowledge and experience of local rental values in determining the rent.

The Law

18. 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.
19. 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).
20. 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

21. 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.
22. The Tribunal cannot take account of the personal circumstances of either party.
23. 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 parties and the Tribunal's own general knowledge of market rent levels in the area of south Cornwall. Having done so it concluded that such a likely market rent would be £600 per calendar month.
24. 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 £600 per calendar month to reflect the Tenant's improvements and responsibility for internal repairs, the lack of central heating, that the carpets, curtains and washing machine were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
25. The Tribunal therefore considered that this required a total deduction of £175 per month made up as follows:

Lack of central heating	£100
Provision of carpets, curtains	£20
Provision of washing machine	£10
Disrepair	£20
Tenant's improvements	£5
Tenant's responsibility for internal decoration	£20

TOTAL per month

£175

26. The Tribunal did not consider that there was any substantial scarcity element in the area of south Cornwall.

Decision

27. 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 £425 per calendar month.
28. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly that rent limit has no effect.

Accordingly the sum of £425 per calendar month will be registered as the fair rent with effect from the 15th December 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 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.