



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

Case reference : CHI/24UC/F77/2023/0039

Property : Park Cottage, Beauworth, Alresford,
Hampshire, SO24 0PA

Tenant : Mrs D Cole

Representative : None

Landlord : Mr & Mrs C Allison

Representative : None

Type of application : Determination of registered rent
Section 70 Rent Act 1977

Tribunal member(s) : Mrs J Coupe FRICS
Mr S Hodges FRICS
Mr N Robinson FRICS

Date of decision : 21 September 2023

REASONS

Decision of the Tribunal

On 21 September 2023 the Tribunal determined that a sum of £208.50 per week will be registered as the Fair Rent with effect from the same date.

Background

1. On 17 April 2023 the Rent Officer received an application dated 14 April 2023 from the landlord for registration of a Fair Rent of £230.00 per week in lieu of the passing rent of £170.00 per week.
2. On 15 June 2023 the Rent Officer registered a rent of £180.00 per week effective the same date.
3. On 23 June 2023 the Rent Officer received an objection to the registered rent from the landlord.
4. The tenancy appears to be a statutory protected tenancy commencing 4 June 1966. The Tribunal was not provided with a copy of the tenancy agreement.
5. The Rent Register provides that the landlord is responsible for repairs and external decorations. The tenant covenants to decorate internally. Section 11 Landlord and Tenant Act 1985 applies.
6. On 18 July 2023 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No objections were received.
7. The Directions required the landlord and tenant to submit their statements to the Tribunal by 1 August 2023 and 15 August 2023 respectively. The landlord's submissions were received on 14 August 2023, some two weeks late.
8. On 7 August 2023 the tenant submitted a case management application which, at Box 6 included a request for the Tribunal "*Not to increase rent. In hands of council*". The tenant elaborated on the application at Box 7 stating "*Since landlord bought property no work has been carried out. At present no working boiler. Dangerous flooring. Damp. Cellar floods.*" There was no indication that the application had been copied to the landlord.
9. In an attempt to clarify the purpose of the case management application the Tribunal case officer spoke by telephone to the tenant on 5 September 2023, during which conversation the tenant verbally confirmed that she sought to raise no objection to the landlord's submissions having been received out of time. The case officer was unable to ascertain why the case management application had been submitted or whether the application in fact stood as the tenant's submissions.

10. Taking account of the circumstances and, in particular, the age of the tenant, the Tribunal adopts the contents of the tenant's case management application as her submissions. Such submissions, whilst not copied to the landlord, repeated those previously disclosed to the landlord and, which were the subject of a meeting with the Rent Officer on 6 June 2023, to which the landlord attended. The Tribunal therefore identified no prejudice to the landlord through the tenant's failure to furnish the landlord with a copy of the application. Furthermore, the Tribunal does not consider it necessary for any reply to be sought from the landlord in the circumstances.
11. For completeness, the Tribunal will address the case management application. Further to the above, and repeated for the avoidance of doubt, the contents of the application stand as the tenant's submissions and will be taken into account in the Tribunal's determination of the fair rent. However, as an application in its own right, the Tribunal finds the tenant's case management application to be without merit. The case management application dated 8 August 2023 is therefore refused.
12. Having reviewed the parties' submissions, the Tribunal concluded that the matter was capable of being determined fairly, justly and efficiently on the papers, consistent with the overriding objective of the Tribunal.
13. These reasons address in **summary form** the key issues raised by the parties. They do not recite each individual point referred to in submissions. The Tribunal concentrates on those issues which, in its view, are fundamental to the determination.

Law

14. 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. The Tribunal 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.
15. In *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee* (1995) 28HLR 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.

16. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent, less variable service charge, may be increased to a maximum 5.00% plus Retail Price Index since the last registration.
17. Under paragraph 7 of the Order an exemption to this restriction applies where the Landlord proves that repairs or improvements undertaken have increased the rent by at least 15% of the previous registered rent.

The Property

18. In accord with current policy, the Tribunal did not inspect the property, instead relying on information provided, information readily available online and viewing the exterior of the property via publicly available online platforms.
19. The property is a two storey Grade II Listed detached house constructed around the 17th/18th century, providing accommodation over four floors including a cellar and attic. Online images show the property to be of traditional masonry construction with part tile hung elevations, under a pitched roof clad in tiles. The property is located in a rural area with limited facilities within close proximity or access to the regular public transport.
20. The Rent Register lists the accommodation as:

Basement:	Cellar
Ground floor:	2 rooms; Kitchen; Bathroom/WC; Utility
First floor:	4 rooms
Outside:	Garage; Stores; Garden
21. The property has oil fired central heating. Online imagery and the property's Energy Performance Certificate (Rating D and 121m²) indicate partial double glazing.
22. Carpets, curtains and white goods are provided by the tenant.

Submissions – Tenant (summarised)

23. The tenant states that, since acquisition, the landlord has undertaken no works to the property and that, as at 8 August 2023, there is no working boiler. The tenant continues that there is dangerous flooring, damp and that the cellar floods.
24. The tenant did not provide, or rely upon, any comparable rental evidence.

Submissions – Landlord (summarised)

25. The landlord describes the property as a traditional cottage, in a fair condition having regard to its age.
26. The property is located in a quiet rural location within a sought-after village, close to Alresford and within five miles of Winchester.
27. The landlord states that comparable rental evidence for this type of property is rare and, therefore, the landlord relies upon a marketing

appraisal provided by a local letting agent which values the property at £3,500 - £4,000 per month.

28. The landlord is of the opinion that demand for such property exceeds supply.

Rent Officer

29. At the request of the tenant, the Rent Officer inspected the property on the 6 June 2023 in the presence of both the tenant and the landlord. Consultation and Consideration Notes (v2 2106) from that meeting, including a summary of the consultation, were included within the Rent Officer's referral to the Tribunal. In the absence of detailed submissions from either party, the Tribunal found the inspection summary useful, extracts of which follow:

- i. *“Very little change to the property since the last registration.” (November 2020)*
- ii. *“Damp is still inherent throughout the house – DR is still very damp.*
- iii. *Water still runs along the lane and flows towards the property due to the camber. She has reported this to the Council but they told her it is a problem that needs to be sorted out by the Southern Water Authority.*
- iv. *Landlord suggested they should contact the council to discuss the issue again.*
- v. *The cellar is prone to water ingress since the council re-surfaced the lane. They have raised the level of the road and reversed the camber so it slopes towards the property.*
- vi. *Tenant mentioned the windows need re-sealing as cracks have appeared along the window cills.*
- vii. *Taps in bathroom need attention – unable to use cold tap on the bath or the hot tap on the sink both of which have seized up.*
- viii. *There were no further points to make.”*

Determination

30. The Tribunal has carefully considered all the submissions before it.
31. 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.
32. No comparable evidence was submitted by the tenant for consideration.
33. The landlord relied upon a marketing appraisal of £3,500-£4,000. However, a copy of the appraisal was not provided, nor any indication that the letting agent had either internally inspected the property or had regard to the issues raised. Accordingly, the Tribunal was unable to attribute any weight to the appraisal.

34. In the absence of any useful comparable evidence provided by the parties the Tribunal relied upon its own experience as a specialist and expert property Tribunal, and its knowledge of rental values locally.
35. Whilst the property benefits from a rural location, the Tribunal identified that the house directly fronts a road. Furthermore, the property differs from typical four-bedroom houses in providing only one bathroom and with that bathroom being located on the ground floor. Having regard to all relevant considerations the Tribunal determined the open market rent to be £2,000 per month, equating to £461.54 per month.
36. Once the hypothetical rent was established, it was necessary for the Tribunal to determine whether the property meets the standard of accommodation, repair and amenity of a typical modern letting. In this instance the Tribunal determined that the subject property falls short of the standard required by the market.
37. The tenant states that the property is in want of repair and the Tribunal finds such representations validated by the Rent Officer's inspection report, which refers to dampness still inherent throughout the house and particularly evident in the dining room. A lack of general maintenance to the window joinery and bathroom fittings was also noted, as was a lack of full double glazing. Water ingress within the cellar was reported as an issue by the Rent Officer and is undisputed by the landlord. Whilst the landlord is clearly not responsible for the resurfacing of the lane which, allegedly, led to the flooding problems, the fact remains that, on occasion, part of the residential accommodation is adversely affected by surface water.
38. It is also common ground between the parties that the white goods, carpets and curtains are supplied by the tenant.
39. Furthermore, the tenant is responsible for the internal decoration of the property. The Tribunal considers such a covenant a greater burden than the normal responsibility for an assured shorthold tenant to keep the landlords' decorations in good order.
40. In reflection of such differences the Tribunal makes a deduction of 47.5% from the hypothetical rent to arrive at an adjusted rent of £1,050.00 per month, equating to £242.31 per week.
41. The Tribunal then directed itself to the question of scarcity, as referenced in paragraph 11 above and, in arriving at its decision on the point, takes account of the following:
 - a. The Tribunal interpreted the 'locality' for scarcity purposes as being the whole area of Alresford and Winchester (i.e. a sufficiently large area to eliminate the effect of any localised amenity which would, in itself, tend to increase or decrease rent);
 - b. Availability of property to rent;
 - c. Local Authority and Housing Association waiting lists;
 - d. Property rental prices which could be an indicator of increased availability of housing and a reduction in scarcity;

42. The members of the Tribunal have, between them, many years of experience of the residential letting market and that experience, coupled with the above, leads them to the view that there is currently a shortage of similar properties to let in the locality defined above.
43. In the absence of any submissions on the extent of scarcity from either party, the Tribunal applies the Rent Officer's deduction for scarcity of 14%.

Maximum Fair Rent

44. This is the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice.
45. The Rent Acts (Maximum Fair Rent Order) 1999 restricts the amount by which the rent, less any variable service charge, may be increased, to a maximum 5% plus RPI since the last registration.
46. The only exception to this restriction is provided under paragraph 7 of the Order where a landlord carries out repairs or improvements which increase the rent by 15% or more of the previous registered rent. The Tribunal determined that such exception does not apply in this instance.
47. The rent to be registered in this application is not limited by the Fair Rent Acts' (Maximum Fair Rent Order) 1999 because it is below the maximum fair rent that can be registered of £225.50 per week prescribed by the Order.
48. The Tribunal accordingly determines that the rent of **£208.50 per week is registered as the Fair Rent with effect from 21 September 2023**, that being the date of the Tribunal's decision. Such rent equates to £903.00 per month, rounded.

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.