



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

**Case reference** : **CAM/11UF/F77/2023/0018**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **12 Stockwell, Haddenham, HP17  
8AX**

**Applicant (Landlord)** : **Mr and Mrs Rose**

**Respondent (Tenant)** : **Mrs S Stevens**

**Type of application** : **Determination of a fair rent under  
section 70 of the Rent Act 1977**

**Tribunal members** : **Peter Roberts FRICS CEnv**

**Date of Determination** : **21 June 2023**

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**DECISION**

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**Description of hearing**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper determination described above as P:PAPERREMOTE The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a fair rent of £185 per week effective from 21 June 2023.**

## **Reasons**

### **Background**

1. On 19 January 2023 the Landlord made an application to register the rent of the Property at £250 per week.
2. The Rent Officer registered a Fair Rent of £185 per week on 16 March 2023 effective from 17 April 2023. This was in lieu of the previous registered rent of £180 per week which was registered on 24 February 2021 and effective from 17 April 2021.
3. The Landlord objected by way of an email dated 3 April 2023. The matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 11 April 2023, inviting the parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.

### **The Property**

5. The Tribunal inspected the Property on 5 June 2023 accompanied by the Tenant. The Landlord did not attend.
6. The Property comprises a detached period two-storey cottage of brick and tile construction providing two bedrooms and bathroom at first floor level together with bathroom, kitchen, dining room and lounge at ground floor. There is a garden to the rear.
7. The Property benefits from night storage heaters although there is no heating in the kitchen. The bathroom and kitchen fittings are dated and basic.
8. As set out below in further detail, the Property is in disrepair and would benefit from modernisation including the installation of insulation.
9. The Council Tax Band for the Property is D.
10. It is a requirement of The Domestic Minimum Energy Standards Regulations that the Property be assessed and entered into the EPC Register. However, the Tribunal noted that there is no online entry for the Property. The Tribunal is therefore unaware as to whether, and to what extent, the Property meets the required standards.

## The Law

11. The relevant law is set out in section 70 of the Rent Act 1977 (the Act) and The Rent Acts (Maximum Fair Rent) Order 1999 (the Order).

12. Section 70 (1) of The Act provides that in assessing the rent:

*“regard shall be had to all the circumstances (other than personal circumstances) and in particular to—*

- i. the age, character, locality and state of repair of the dwelling-house,*
- ii. if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture and*
- iii. any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.”*

13. Section 70 (2) of the Act provides that:

*“...there shall be disregarded.*

- i. any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;*
- ii. any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his*
- iii. if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.”*

14. In addition, section 70 (2) of The Act requires the Tribunal to assume:

*“that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.”*

15. This latter provision requires the Tribunal to assume that the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent; in effect, if such scarcity exists, the Tribunal is to adjust the rental figure so that the fair rent is not affected by it.

16. 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).”*

17. In considering scarcity under section 70 (2) the Tribunal recognised that:

(a) *“there are considerable variations in the level of scarcity in different parts of the country and that there is no general guidance or “rule of thumb” to indicate what adjustment should be made; the Tribunal therefore considers the case on its merits;*

(b) *terms relating to rent are to be excluded. A lack of demand at a particular rent is not necessarily evidence of no scarcity; it may be evidence that the prospective tenants are not prepared to pay that particular rent.”*

18. Section 71 (1) of the Act provides that the registration of the rent takes effect from the date that the Tribunal makes its decision.

19. Fair rents are subject to a capping procedure under the Rent Acts (Maximum Fair Rent) Order 1999 which limits increases by a formula based on the increase in the Retail Price Index since the previous registration.

20. Section 72 (1) (b) of the Act provides that the registration of a rent takes effect:

*“...if the rent is determined by the appropriate tribunal, from the date when the tribunal make their decision”*

### **Representations – Tenant**

21. The Tenant completed the Reply Form and stated the following improvements:

- *“Internal decoration of lounge – inc plastering, application of damp proof paint/wallpaper + paint – 2021*
- *Repair of outside of lounge window + ledge with wood filler + repaint as wood rotten – 2021*
- *Repair of bottom of kitchen door + front door with gorilla tape as wood rotten – 2022*

- *Internal decoration of kitchen – plastering of inside of kitchen window + the wall below, with application of damp proof paint. Tiles put behind sink area – 2023*
- *New gates made for front garden – 2022*

*All these were undertaken by daughter and her partner.”*

22. The Tenant also made further comments as set out below:

- *“Due to the age/nature of the property, it requires regular maintenance. When advised of issues the landlord always fixes/repairs ASAP*
- *There are some jobs outstanding to which the landlord is aware of and has looked at previously*
  - *Repair/replacement of lounge/main bedroom + storage/box room window due to rotten wood/broken sash*
  - *Repair/replacement of kitchen + front door, due to rotten wood.”*

23. These issues were observed during the Tribunal’s inspection.

24. The Tenant did not provide any opinion as to the appropriate rent nor forward comparable evidence.

### **Representations – Landlord**

25. The Landlord’s objection stated:

*“As per table below you can see that both Market Rent and RPI have increased significantly since the last assessment yet the Fair Rent has not been kept in alignment, reducing both as a proportion of Market Rent and relative to inflation... ..There have been no significant changes to the property in this period, this appeal is on the basis of the prevailing conditions within the UK economy and for consistent application of the determination process.”*

26. The Landlord proposed a Market Rent of £311 and set out that he had calculated an increase in RPI since 2019 of 27.89%.

27. The Landlord did not provide any evidence to support his assessment of Market Rent.

### **Determination**

28. The Tribunal is unable to take into account the personal circumstances of the Parties. As such, the assessment of rent has no regard to the personal, financial or health circumstances of either party both of whom are considered to be hypothetical. The Tribunal has therefore had regard to hypothetical, willing parties in the open market.

29. As set out in the Spath case as referred to above, the first step is to determine the rent which a landlord could reasonably expect to obtain for the Property in the open market if it were let today in the condition and on the terms now usual for open market lettings. The rent currently paid and/or registered is not relevant to this exercise.
30. The previous rent is therefore irrelevant, and it is not appropriate to undertake the valuation exercise by simply applying indexation.
31. The Tribunal has sought evidence of current rents and properties available to let in the locality, but it is apparent that there is a severe shortage of properties to let in general even before regard is had to finding direct comparables.
32. The Tribunal, in the absence of being presented with any evidence, has therefore relied upon its own knowledge and expertise whilst taking note of the Rent Officer's valuation.
33. The Rent Officer adopted a market value assuming the Property was in a condition commensurate with modern market requirements of £311 per week which equates to a rent of £1,347.66 per month. It appears from the Landlord's representations that he does not disagree with this as a starting point. The Tribunal does not see any compelling reason to adopt a different figure.
34. However, this is only the first step and adjustments need to be made to reflect the actual circumstances save for the implementation of tenant's improvements.
35. The Tribunal appreciates that the Landlord and Tenant appear to have a long-standing relationship and the Tenant's comments in respect of the willingness of the Landlord to carry out repairs is noted.
36. However, it is apparent that the windows are in a very bad state and have been so for some time. The Tenant has attempted to patch and repair the windows, but it is clear that a full replacement of all windows should have been carried out some time ago and the Tenant's valiant attempts to patch them up is merely delaying the inevitable.
37. Similarly the timber doors should require attention and the Tribunal noticed that the roof joists are exposed in places to the weather such that rain can be blown under the eaves. There is also evidence of damp which, again, the Tenant has sought to control but warrants further investigation and rectification.
38. There is therefore significant overdue repair work required.
39. The Property is also extremely dated internally and, before being let on the open market, would require a new kitchen and bathroom together with full modernisation and new carpeting throughout in addition to the items already identified above.

40. In addition, it is apparent from the lack of comparable evidence that there is a shortage of similar properties and the Tribunal notes that the Rent Officer has made a deduction of 10% on account of scarcity. The Tribunal agrees with this.
41. Taking all these matters into account, the Tribunal is of the opinion that the fair rent for the Property as it actually exists (i.e., taking account of existing disrepair) and disregarding the Tenant's improvements is £185 per week.
42. The Tribunal appreciates that the Landlord may consider it counterintuitive for the rental value of this Property to have not increased in line with Assured Shorthold Tenancy lettings. However, based on the Tribunal's observations, it appears that the disrepair and general condition of the Property has worsened over time and is falling further behind the standards required by prospective tenants in the market. As such, the rental value will not keep pace with the general market.
43. In this regard, it would be advisable for the Landlord to familiarise themselves with the regulations Domestic Minimum Energy Standards Regulations.
44. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent, details of which are attached to this Decision, or the Fair Rent decided by the Tribunal, whichever is the lower.
45. The Tribunal notes that the previous rent detailed on the Rent Register is £180 per week. The current calculated capped rent is therefore £236 per week.
46. The Fair Rent (£185 pw) is below the capped rent (£236). Therefore, the Fair Rent of **£185 per week** is to be registered.

**Name:** Peter Roberts FRICS CEnv

**Date:** 21 June 2023

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).



## Notice of the Tribunal Decision

Rent Act 1977 Schedule 11

Address of Premises

12 Stockwell, Haddenham, HP17 8AX

The Tribunal members were

Peter Roberts FRICS CEnv

Landlord

Mr and Mrs Rose

Tenant

Mrs S Stevens

1. The fair rent is

£185

per

week

(excluding water rates and council tax but including any amounts in paras 3&4)

2. The effective date is

21 June 2023

3. The amount for services included in the rent is

Nil

Per

N/A

4. The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is

Nil

Per

N/A

not applicable

5. The rent is not to be registered as variable.

6. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply

7. Details (other than rent) where different from Rent Register entry

The Property comprises a detached period two-storey cottage of brick and tile construction providing two bedrooms and bathroom at first floor level together with bathroom, kitchen, dining room and lounge at ground floor. There is a garden to the rear.

8. For information only:

(a) The fair rent to be registered is less than the maximum fair rent as prescribed by the Rent Acts (Maximum Fair Rent) Order 1999. The rent that would otherwise have been registered was £236 pcm.

Chairman

Peter Roberts FRICS  
CEnv

Date of decision

21 June 2023

# MAXIMUM FAIR RENT CALCULATION

Address of premises

12 Stockwell, Haddenham, HP17 8AX

LATEST RPI FIGURE	x		372.8		
PREVIOUS RPI FIGURE	y		296		
x		372.8	minus y	296	= (A) 76.8
(A)		76.8	divided by y	296	= (B) 0.25945
First application for re-registration since 1 February 1999					No
If yes (B) plus 1.075 = (C)				N/A	
If no (B) plus 1.05 = (C)				1.3094	

Last registered rent*	180	Multiplied by (C) =	235.69
*(exclusive of any variable service charge)			
Rounded up to the nearest 50 pence =	236		
Variable service charge (Yes/No)	No		
If YES add amount for services =	N/A		
MAXIMUM FAIR RENT =	£236	per	week

## Explanatory Note

1. The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
2. In summary, the formula provides for the maximum fair rent to be calculated by:
  - a) increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
  - b) adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).

A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B)

The result is rounded up to the nearest 50 pence
3. For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Committee's fair rent determination was made.

4. The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.