



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

Case reference : CHI/45UC/F77/2023/0071

Property : Keepers Cottage, Slindon, Arundel,
West Sussex, BN18 0RG

Applicant Tenant : Mr & Mrs P James

Representative : None

Respondent Landlord : The National Trust

Representative : None

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

Tribunal member(s) : Mrs J Coupe FRICS
Ms C Barton MRICS
Mr N Robinson FRICS

Date of decision : 11 December 2023

REASONS

Decision of the Tribunal

On 11 December 2023 the Tribunal determined that a sum of £828.50 per month will be registered as the Fair Rent with effect from the same date.

Background

1. On 24 July 2023 the Rent Officer received an application from the landlord for registration of a Fair Rent of £640.00 per month in lieu of the passing rent of £560.00 per month.
2. On 11 September 2023 the Rent Officer registered a rent of £790.00 per month effective the same date.
3. On 11 October 2023 the Rent Officer received an objection to the registered rent from the tenant.
4. The tenancy appears to be a statutory protected tenancy commencing 29 September 2013. 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 1 November 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 15 November 2023 and 29 November 2023 respectively. Both parties complied.
8. 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.
9. 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

10. 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.

11. 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.

12. 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.
13. 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

14. In accord with current policy, the Tribunal did not inspect the property, instead relying on information provided or readily available online, and viewing the exterior of the property via publicly available online platforms. Both parties included useful photographs in their submissions. The landlord also provided a floorplan noting an approximate floor area of 129.5m² and a location plan.
15. The property is a two storey detached house constructed circa.1800-1918 providing accommodation over two floors. Images provided by the parties show the property to be of traditional solid masonry and course flint construction under a pitched roof clad in tiles, with dormer windows. The property is located in an isolated position, within a large plot accessed by an unmade track. Local facilities and public transport are limited.
16. The parties agree that the accommodation comprises two reception rooms, kitchen and utility at ground level and three bedrooms and a bathroom/WC at first floor level. Garden and outhouses.
17. The property is served by a private drainage system, has oil fired central heating and secondary glazing. Carpets, curtains and white goods are provided by the tenants.

Submissions – Tenants (summarised)

18. The landlord applied to the Rent Officer for registration of a fair rent of £640.00 per month, a figure which, in principle, the tenants agreed.

However, in determining the fair rent the Rent Officer registered a rental of £790.00 per month. The tenants argue the figure to be disproportionate and that an increase from the 2016 rent should be stepped, as discussed with the landlord.

19. The tenants explain that the utility is no more than a temporary boot-room, designed to be removed should they vacate the property and that two of the bedrooms are small and narrow, having been formed by the splitting of one larger room. Furthermore, the first floor accommodation is located in the roof space, with sloping ceilings. A photograph of a single bedroom was provided.
20. The tenants do not dispute the improvements completed by the landlord in 2019. However, the tenants refer to the property as a “cold house”, suffering from damp and condensation, requiring frequent redecorating and surface mould removal. The tenants point to a lack of mains gas and state that the oil-fired central heating system is expensive to run. A photograph of a French drain purportedly causing dampness to the north elevation was provided. Finally, the tenants refer to the poor access to the property via a long and unmade track which is causing considerable wear and tear to their vehicles.
21. The tenants did not provide, or rely upon, any comparable rental evidence, nor did they provide comment as to whether the demand for such properties exceeds supply.

Submissions – Landlord (summarised)

22. The landlord describes the property as “located by itself with no neighbours and surrounded by woodland and historic parkland.”
23. A partial refurbishment of the property was undertaken in 2019, including: roof space insulation; wall insulation; secondary glazing; new kitchen; partial bathroom replacement; partial internal decoration; new sewage treatment system; other necessary repairs.
24. The landlord is not aware of any disrepair or defects.
25. In common with the tenants, the landlord did not provide, or rely upon, any comparable rental evidence, nor did they provide comment as to whether the demand for such properties exceeds supply.

Determination

26. The Tribunal has carefully considered all the submissions before it.
27. 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.
28. No comparable evidence was submitted by either party for consideration and the Tribunal was therefore required to rely upon its own experience as

a specialist and expert property Tribunal and its knowledge of rental values in the locality.

29. The Tribunal finds that the property is situated in a remote location with poor access and limited public facilities. The Tribunal also finds, based on approximate floor measurements and a photograph provided, that the second and third bedrooms are no more than single bedrooms, having been created by the division of one room.
30. Having regard to all relevant considerations the Tribunal determined the open market rent to be £1,250.00 per month.
31. 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.
32. The first floor accommodation is within the roof space and, accordingly, has partial restricted height. The ground floor utility is considered little more than a temporary boot store.
33. Furthermore, the costs of running an oil -fired central heating system for a property of this age, condition and location are considered higher than the norm.
34. The Tribunal also accepts that as a consequence of the location the property may suffer localised dampness and condensation on occasion.
35. It is common ground between the parties that the white goods, carpets and curtains are supplied by the tenants, for which deductions are made.
36. The tenants are also 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.
37. Finally, the Tribunal disregarded the undisputed tenant's improvements.
38. In reflection of such differences the Tribunal makes a deduction of 12% from the hypothetical rent to arrive at an adjusted rent of £1,100.00 per month.
39. 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 West Sussex (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;
40. Neither party made submissions to the Tribunal on the point of scarcity. However, 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 no shortage of similar properties to let in the locality defined above. Accordingly, the Tribunal decline to apply a deduction for scarcity.

Maximum Fair Rent

41. 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.
42. 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.
43. 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.
44. The rent to be registered in this application is limited by the Fair Rent Acts' (Maximum Fair Rent Order) 1999 because it is higher than the maximum fair rent that can be registered of £828.50 per month prescribed by the Order.
45. The Tribunal accordingly determines that the rent of **£828.50 per month is registered as the Fair Rent with effect from 11 December 2023**, that being the date of the Tribunal's decision.
46. The rental figure determined by the Tribunal is the maximum rent that can be charged for the property and is fixed until the next registration. However, the landlord is under no obligation to charge the full amount.

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.