



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

Case Reference : **CHI/00HE/F77/2023/0055**

Property : **2 Penhawger Cottages
Merrymeet
Liskeard
Cornwall
PL14 3LW**

Applicant Landlord : **Mrs W White**

Representative : **None**

Respondent Tenant : **Mr D Fitzpatrick**

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 FRICS
Ms C D Barton MRICS
Mr M C Woodrow MRICS**

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

Date of Decision : **3rd November 2023**

DECISION

Summary of Decision

On 3rd November 2023 the Tribunal determined a fair rent of £165 per week with effect from 3rd November 2023.

Background

1. On 3rd July 2023 the Landlord applied to the Rent Officer for registration of a fair rent of £175.25 per week for the property, equating to £759.42 per month.
2. The rent was previously registered on the 24th September 2021 at £153.08 per week following a determination by the Rent Officer. This equated to £716.65 per month.
3. The rent was registered by the Rent Officer on the 4th August 2023 at a figure of £165.38 per week with effect from the 27th September 2023. This equates to £759.42.
4. On 4th August 2023 the Landlord 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 Tribunal does not consider it necessary and proportionate in cases of this nature to undertake inspections or hold Tribunal hearings unless either are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal office issued directions on 26th September 2023 which 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.
7. Both parties were invited to include photographs and video within their representations if they so wished and were informed that the Tribunal might also consider information about the property available on the internet.
8. Representations were made by the Landlord which were copied to the Tenant, but no representation was made by the Tenant.

The Property

9. From the information provided and available on the internet, the property can be described as a semi-detached house built in 1864 as evidenced by a builder's stone on the property. It is in a rural situation some 3 miles northeast of Liskeard with no immediate shopping facilities. The nearest bus link is ½ mile distant.

10. The elevations have been rendered and the roof is pitched. Windows are double glazed. The only heating is from a multifuel burner in the Living room, recently installed at the Landlord's expense.
11. The accommodation includes 3 Bedrooms, Living Room, Kitchen, Utility and Bathroom. Outside there are large gardens, 2 sheds and off-road parking.

Evidence and Representations

12. The Tenancy commenced 1st November 1985.
13. The Rent Officer had assessed an open market rent of £190.38 per week, which equates to £825 per month, and then makes several deductions including an allowance for internal decoration, arriving at an adjusted figure of £165.38 per week which equates to £716.65 per month.
14. The Landlord states that she has carried out continuous improvements and repairs to the property, that the Bathroom is in good repair and the Kitchen "is basic but solid", both having been installed when the tenancy began in 1985.
15. The Landlord states that the Tenant supplies all white goods, carpets and curtains.

The Law

16. 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.
17. 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).

18. 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

19. 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.
20. 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 good 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 Liskeard and east Cornwall. Having done so it concluded that such a likely market rent would be £925 per calendar month.
21. It should be noted that market rents are normally based on a monthly figure.
22. 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 £925 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy. The lack of central heating, dated Kitchen and the Tenant's liability for internal decoration also needed to be taken into account
23. The Tribunal therefore considered that this required a total deduction of £210 per month made up as follows:

Tenant's provision of floorings	£50
Tenant's provision of white goods	£30
Tenant's provision of curtains	£20
Tenant's liability for internal decoration	£50
Dated kitchen	£20
Lack of full central heating	£40

TOTAL per month

£210

24. The Tribunal did not consider that there was any substantial scarcity element in the area of Liskeard and east Cornwall.

Decision

25. Having made the adjustments indicated above the fair rent determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £715 per calendar month which equates to £165 per week.
26. The Section 70 Fair Rent determined by the Tribunal is below the maximum fair rent of £195.50 per week 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 £165 per week will be registered as the fair rent with effect from the 3rd November 2023 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.