



FIRST - TIER TRIBUNAL  
PROPERTY CHAMBER  
RESIDENTIAL PROPERTY)

Case Reference : CAM/26UF/F77/2024/0013  
Property : 25 Periwinkle Lane, Hitchin, Herts, Essex  
SG5 1TZ  
Tenant : Mr M & Mrs F Thomas  
Landlord : Mountview Estates PLC  
Type of Application : Determination of a fair rent under section  
70 of the Rent Act 1977  
Tribunal Members : Judge JR Morris  
Mr Gerard Smith MRICS FAAV REV  
Date of Decision : 23<sup>rd</sup> May 2024

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DECISION

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DECISION

1. The Fair Rent for the Property is determined to be £975.00 per calendar month as from 23<sup>rd</sup> May 2024 which is below the capped rent of £1,065.00 per calendar month under the Rent Acts (Maximum Fair Rent) Order 1999.

REASONS

THE PROPERTY

2. The Property is a late Victorian two storey mid terraced house with brick elevations under an interlocking concrete tile roof. The doors are upvc and the windows have upvc frames with double glazed units. The rainwater goods are upvc gutters with cast iron downpipes. There is a small front garden with steps from the road to a concrete paved path to the front door. There is a gated fenced garden to the rear with a shared access (right of way) across the Property's garden for neighbours to access the rear of their own premises. There is no garage or off-street parking.

Accommodation

Entry to the Property is directly into the front room. The Property comprises on the ground floor a front living room (circa 12 ft x 12 ft), a lobby from which rise stairs to a small landing, a rear living room (circa 12ft x 12ft), a kitchen (circa 9ft x 6ft), a

small lobby with the back door and off which is the bathroom with w.c. (circa 7ft x 7ft). From the first-floor landing there are two bedrooms (circa 12ft x 12ft, 12ft x 12ft) and off the second bedroom is a third bedroom (6ft x 8ft).

#### Services

Space heating is by Tenants' own appliances. Water heating is by an electric immersion heater. The Property has mains gas, electricity, water and drainage.

#### Furnishing

The Property is let unfurnished. Carpets, curtains and white goods are not provided by the Landlord.

#### Location

The Property is situated in a residential area of Hitchin which has a range of amenities.

### THE TENANCY

3. The Tenancy is monthly periodic tenancy regulated under the Rent Act 1977 which commenced in May 1981. As a Tenancy, not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs.

### THE REFERRAL

4. A rent, capped under the Rent Acts (Maximum Fair Rent) Order 1999, of £858.00 per calendar month was registered on 7<sup>th</sup> March 2022 effective from 8<sup>th</sup> April 2022, the uncapped rent being £865.00 per calendar month. The Landlord by a notice in the prescribed form received by the Rent Officer on 15<sup>th</sup> January 2024 proposed a new rent of £995.00 per calendar month. On 6<sup>th</sup> March 2024 the Rent Officer registered a rent effective from 8<sup>th</sup> April 2024 of £1,008.00 per calendar month, which was lower than the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. On 12<sup>th</sup> March 2024 the Tenant referred the Rent Officer's assessment to the Tribunal. The referral was dealt with by written representations and inspection.

### THE LAW

5. The relevant Law relating to these reasons is contained in the and the Rent Act 1977.

### INSPECTION

6. The Tribunal inspected the Property in the presence of the Tenants.
7. Externally the Property is in fair condition. The Tenant has replaced the front and back doors. The Tenants replaced the garden fence which was the responsibility of the property owner to be maintained.
8. Internally, the Property is well maintained by the Tenants. The tenants have had the front room re-plastered. There are signs of damp in the third bedroom possibly due to an overflowing gutter, and in the second bedroom under the window. The kitchen and bathroom would be basic and dated but for the Tenants' improvements. There is no extractor fan provided in either. There is only a downstairs bathroom. The

layout of the bedrooms is awkward with access to the third bedroom being through the second bedroom only making it suitable as a study or child's room.

## REPRESENTATIONS

### *Tenant's Written Representations*

9. The Tenants said they considered the rent increase unreasonable as it was above the current cost of living. The only heating they have is two fires, one gas the other electric and an electric radiator in the bathroom which is very cold. In addition, in the last two years (since the last registration) they had added to the value of the Property by purchasing a new front door and electric wall fire. The fire had to be purchased because the original fire was defective.
10. The said they felt that the increase should be in line with the current rate of inflation with a few percent over for the Landlord's overheads.
11. The Tenants made a further representation having noted that the Landlord on the prescribed form and the Rent Officer on the Register referred to a garage. The Tenants said that in all the 43 years they had lived in the house there had never been a garage. The Property is a mid-terrace without vehicular front or rear access. They said that the error appears to have stemmed from September 2020 when the Property was transferred to the current Landlord. They considered that this would have wrongly increased the rent. They also asked for a rebate/credit for the period 2022/2023.

### *Landlord's Written Representations*

12. The Landlord made no representations.

## DECISION

13. The Tribunal assessed the rent for the Property pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances). The Tribunal took account of the relevant cases and legislation including *Spathe Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24<sup>th</sup> May 1991.
14. The Tribunal, like the Rent Officer, is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market taking into account the age, character, locality, state of repair. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time. The Tribunal does not take into account the present rent or the period of time for which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the existing rent.
15. The Tribunal is not able to take the personal circumstances of either party into account.

16. The Tribunal assesses a rent based upon the condition of the Property at the time of the determination. It cannot consider the period of time which a property might have been in disrepair prior to work being carried out by the Landlord. Equally it cannot consider work that is said to be intended or scheduled to take place in the future.
17. Neither party provided rental values of comparable properties. The Tribunal therefore used the knowledge and experience of its members. The Tribunal firstly determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality in particular. It then adjusts these to take account of the condition of the Property compared with that of comparable properties.
18. The Tribunal found that comparable properties of similar age and character that had recently been let in the area were in the region of £1,100.00 per calendar month to £1,500.00 per calendar month. All similar properties let are in good condition, fully double glazed, with central heating, modern kitchen and bathroom and include floor coverings and some include curtains/blinds/shutters and some white goods. Those at the higher end are larger than the property and/or have off road parking and/or additional features such as a downstairs cloakroom, an ensuite bathroom as well as the main bathroom or are particularly well appointed e.g. new kitchen with integral appliances. Taking into account the layout of the Property and lack of off-road parking or garage, the Tribunal determined that if it were in good condition, fully double glazed, with central heating, modern kitchen and bathroom floor coverings and some white goods e.g. cooker (hob and oven) the market rent would be £1,300.00 per calendar month.
19. The Tribunal found that the Property was let without central heating, floor coverings and white goods and the kitchen and bathroom would be basic and dated but for the Tenant's improvements. There was also some signs of damp and the Tenants had carried out some improvements and maintenance in replacing the front and rear doors, re-plastering the front room, and replacing the fence. Taking these matters into account the Tribunal made a deduction of £325.00 (25%) and determined a rent of £975.00 per calendar month.
20. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

## SCARCITY

21. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
22. That experience and consideration leads the Tribunal to the view that at the time of the determination demand for "... similar dwelling houses in the locality..." that are available for letting was not significantly greater than supply. "Locality" in this case being Hertfordshire. Therefore, no deduction was made to take account of scarcity.

## TRIBUNAL'S CALCULATIONS

- |     |                             |                              |
|-----|-----------------------------|------------------------------|
| 23. | Open Market Rent:           | £1,300.00 per calendar month |
|     | Less global deduction (25%) | <u>£325.00</u>               |
|     | Fair Rent                   | £975.00 per calendar month   |
24. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. The capped rent is £1,065.00 per week, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the Tribunal is to be registered.

FAIR RENT = £975.00 per calendar month as from 23<sup>rd</sup> May 2024.

Judge JR Morris

Caution: The Tribunal inspected the Property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

### ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.