



FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)

Case reference : CAM/22UN/F77/2023/0024

Property : Mosshead, Hungerdown Lane,  
Lawford, Manningtree, Essex, CO11  
2JN

Applicant (Landlord) : Tical Investments Limited

Representative : Batcheller Monkhouse

Respondent (Tenant) : Mr C Sparks

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

Tribunal members : Mary Hardman FRICS IRRV(Hons)

Date of decision : 22 August 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 documents that I was referred to are as submitted by the Applicant and the Respondent. I have noted the contents and my decision is below.

## Decision

The tribunal determined a fair rent of £243 per week

## Reasons

## Background

1. On 2 December 2022 the landlord made an application to register the rent of the property at £280 per week.
2. On 24 January 2023 the Rent Officer registered a Fair Rent of £225 per week with effect from 24 January 2023.
3. This was in lieu of the previous registered rent of £219 per week from 5 January 2021.
4. The Landlord objected, and the matter was referred to the First Tier Tribunal, Property Chamber.
5. The Tribunal issued directions on 6 June 2023. Parties were requested to complete a pro forma supplying detail of the accommodation on a room-by-room basis, the features of the property (central heating, white goods, double glazing, carpets and curtains) and other property attributes and any further comments that they may wish the tribunal to take into consideration. This could include any repairs and improvements that had been made, any comments on the condition of the property and rentals of similar properties – should they wish to rely on these.

## The property

6. The tribunal inspected the property on 2 August 2023. The tenant, Mr Sparks was present at the inspection.
7. The Property is a pre-1900 three/four bedroom detached property of brick construction with a tiled roof.
8. There is central heating which was installed by the tenant.
9. Most of the windows are single glazed sash windows with a double-glazed window to the bathroom and guest bedroom
10. The accommodation comprises a lounge, sitting room kitchen and pantry to the ground floor and three bedrooms, a box room and bathroom to the first floor with access from a small landing.
11. There is a cellar for storage with steep steps to access.

12. The kitchen and bathroom are in reasonable condition although require some updating
13. The carpets, floor coverings and curtains were provided by the tenant.
14. There is a garden to the front and private garden to the rear. It is in a rural setting with open aspect to the rear.

#### The law

15. The relevant law is set out in section 70 of the 1977 Act and the MFR Order. We are to have regard to all the circumstances (other than personal circumstances) and in particular to the age, character, locality and state of repair of the Property. We are to disregard the effect on the rental value of any improvements carried out by the tenant (other than in pursuance of the terms of the tenancy). We are also required (by s.70(2)) 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, we are 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 confirmed that for the purposes of determining the market rent (before making any necessary adjustments), open market assured tenancy rents are usually appropriate comparables.
17. By section 72 of the 1977 Act, if the rent is determined by the tribunal, the registration of the rent takes effect from the date we make our decision.

#### Representations – landlord

18. The landlord stated that the Rent Officer's figure was based on a market rent of £300 which they felt was too low and that the market rent should be £410 per week.
19. They provided two schedules of rents as comparables. The first what they suggested was evidence of 'local open market rental guides' of properties which had been recently left. They believe the comparable evidence showed the open market rental guide for the appeal property should be between £410 and £445 per week
20. The schedule comprised of some 20 properties with 3 or 4 bedrooms. No dates were given, nor proximity to the subject property and rents ranged from £335 per week to £577 per week.
21. They suggested that the best comparables were a 4 bedroomed detached property of similar size at Ruth King Close, Colchester at £577 per week, a 3 bedroomed rural farmhouse/barn conversion at Bramford Tye, Ipswich at £404 per week and a 4 bedroomed similar sized property at Wainwright Way, Kesgrave, Ipswich at £415 per week.

22. In terms of the second schedule this comprised of agreed passing rents for properties on the Lawford Hall Estate. These were all let on an Assured Shorthold Tenancy (AST). They were let at 10%-20% below open market value to retain tenants and to prolong the length of the tenancies.
23. This comprised of 9 properties where the passing rents (no rent date given) ranged from £2.83m<sup>2</sup> to £4.04m<sup>2</sup>. These were mostly smaller properties ranging in size from 66m<sup>2</sup> to 106m<sup>2</sup> .
24. They had adopted a £/m<sup>2</sup> of £2.95 and applying this to the floor area of Mosshead which they said was 137m<sup>2</sup> this gave a reviewed rent of £404.15 per week.
25. Adopting £410 per week as the open market rent they had then made a deduction in line with that of the rent officer of £50 and a scarcity deduction of £41 (10%) to arrive at a reviewed rent of £319 per week.
26. No calculation was made as to whether this exceeded the Maximum Fair Rent – see below.

#### Representations – tenant

27. The tenant provided dimensions of the rooms and said that they had provided the carpets and curtains and white goods.
28. They had taken the property in a very poor state some 40 years ago and had renovated it, replacing the kitchen and the bathroom and completed restoring and redecorating the property at their own expense. They had installed central heating to the property – the property previously had no heating system.
29. Floors had been replaced due to flooding and the garden had been created from what was overgrowth.
30. The property remained fairly basic with basic standard kitchen and bathroom and mainly single glazed windows.

#### Determination

31. First, we need to determine the rent which the 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.
32. The landlord has very helpfully produced a number of comparables although effective dates of the transactions would have been useful. It is also unclear what is meant by 'local open market rental guides' in respect of the first schedule of rents.
33. On the basis of these comparables, although discounting Ruth King Close which appears to bear little comparison to the subject property, it does not

seem unreasonable to adopt a starting open market rent of £400 per week. This is an attractive house of good size in a pleasant semi-rural area.

34. However, we then need to adjust this open market rent to reflect the fact that this property was in an extremely poor state when the tenant took it on and the vast majority of the work to render it habitable has been carried out over the years by the tenant. In addition, the tenant has provided most floor coverings, curtains and white goods.
35. The £50 adjustment made by the rent officer and adopted by the landlord is, in the opinion of the tribunal, significantly too low to reflect the impact on the rent of the tenant's work and the tribunal has made an adjustment of £130 to arrive at a rent before consideration of scarcity of £270.
36. We then considered whether there should be an adjustment for "scarcity" as referred to in paragraph 15 and decided that there should be an adjustment of 10%. This results in a rent of £243 per week.
37. 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 the decision notice, or the Fair Rent decided by the Tribunal whichever is the lower.
38. The capped rent is £291 per week. This is higher than the rent assessed by the Tribunal as set out above and therefore, the rent determined by the tribunal of £243 per week is to be registered.

Name: Mary Hardman FRICS IRRV(Hons)      Date: 22 August 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).