



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

**Case reference** : CHI/24UN/F77/2024/0022

**Property** : North Cottage, Melchot Court Farm,  
Sherfield English, Romsey, Hampshire,  
SO51 6FS

**Applicant Tenant** : Mr M & Mrs C E Mortimer

**Representative** :

**Respondent Landlord** : Parkwater Investments (2018) Ltd

**Representative** :

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

**Tribunal members** : Mrs J Coupe FRICS  
Mr M.J.F. Donaldson FRICS

**Date of decision** : 27 June 2024

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**REASONS**

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## **Decision of the Tribunal**

**On 27 June 2024 the Tribunal determined that a sum of £840.00 per month will be registered as the Fair Rent with effect from the same date.**

## **Background**

1. On 15 December 2023 the Rent Officer received an application dated 13 December 2023 from the landlord for registration of a Fair Rent of £850.00 per month in lieu of the passing rent of £686.00 per month.
2. On 18 March 2024 the Rent Officer registered a Fair Rent of £850.00 per month effective the same date.
3. On 22 April 2024 the tenants objected to the registered Fair Rent and requested the Rent Officer refer the matter to the Tribunal.
4. The tenancy appears to be a statutory protected tenancy commencing 1 September 1984. 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 10 May 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 24 May 2024 and 7 June 2024 respectively. Neither party adduced a statement. However, the Tribunal had regard to the tenant's representations to the Rent Officer and to the Rent Officer's Consultation and Consideration Notes of the inspection and meeting with the tenants held on the 14 March 2024.
8. Having reviewed the application, 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. The first matter for the Tribunal to consider was the allegation from the tenants stating that the landlord's application for registration of a Fair Rent is invalid as it was, allegedly, issued in an incorrect name. The Tribunal's jurisdiction is not engaged in such matters. Should the point remain in dispute, the tenants will need to pursue it through the Courts.
10. The Rent Officer does, however, respond to the point of validity in her letter to the tenants dated 25 April 2024, in which she states that the landlord's details have been correctly recorded from the information provided on the application form.

11. These reasons address in **summary form** the key issues raised by the parties. They do not recite each point referred to but concentrate on those issues which, in the Tribunal's view, are fundamental to the determination.

## **Law**

12. 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.
13. 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.

14. 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.
15. 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**

16. In accordance with current policy, the Tribunal did not undertake an inspection of the property.
17. From information provided, the property is a semi-detached house situated in a rural location, adjacent to a working farm. Local facilities and public transport are assumed to be limited.
18. The accommodation comprises a living room, kitchen, bathroom and separate WC at ground floor level, and two double bedrooms and a single bedroom on the first floor. The bathroom is described by the Rent Officer as "tiny". The property is situated in a good sized plot with a garage and parking. The letting is unfurnished.

19. There is oil fired central heating to the ground floor which was installed by the tenants, with a financial contribution from the landlord. Upkeep and maintenance of the system is reportedly undertaken by the tenants. A wood burning stove and flue liner, and a single electric heater on the first floor, have been installed by the tenants. Windows are uPVC double glazed. Mains water and electric are connected. Drainage is to a shared septic tank which is said to have been malfunctioning for a considerable period of time. Kitchen units, floor coverings and carpets are provided by the tenants. The property has been significantly improved by the tenants over many years. The tenants allege that the landlord is slow to effect repairs and maintenance.

### **Determination**

20. The Tribunal has carefully considered all the information before it.
21. 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.
22. Neither party sought to rely on any comparable evidence and the Tribunal therefore, as an expert Tribunal, had to rely on its own experience and knowledge of rental values in the locality. In doing so, the Tribunal determined the open market rent, in good tenable condition, to be £1,300 per month. The rental figure takes into account the size of the accommodation, ground floor bathroom and separate toilet, shared drainage system and the size of the plot.
23. 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.
24. The tenants state that they have undertaken considerable improvements to the property, including, but not limited to, installing kitchen units and partial heating. The Rent Officer records such and no challenge on the point was made by the landlord. Accordingly, the Tribunal adopts this position in making deductions to the hypothetical rent.
25. The tenants claim of general disrepair and issues with the shared drainage system also go unchallenged, as did the Rent Officer's findings in regard to the tenants' floor coverings, curtains, and white goods. Accordingly, the Tribunal adopts this position in making deductions to the hypothetical rent.
26. The Tribunal further note that the tenants are 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 landlord's decorations in good order.

27. In reflection of such differences the Tribunal makes a deduction of 28% from the hypothetical rent to arrive at an adjusted rent of £936.00 per month.
28. The Tribunal then directed itself to the question of scarcity, as referenced in paragraph 13 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 North Hampshire (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. Property rental prices which could be an indicator of increased availability of housing and a reduction in scarcity;
29. 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 a shortage of similar properties to let in the locality defined above. Accordingly, the Tribunal applies a deduction for scarcity of 10% to arrive at a rent of £842.40 per month, rounded down to £840.00 per month.

### **Maximum Fair Rent**

30. 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.
31. 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.
32. 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.
33. The rent to be registered in this application is not limited by the Fair Rent Acts (Maximum Fair Rent Order) 1999 because it is below the Maximum Fair Rent that can be registered of £964.00 per month prescribed by the Order.
34. The Tribunal accordingly determines that the rent of **£840.00 per month is registered as the Fair Rent with effect from 27 June 2024**, that 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](mailto: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.