



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

**Case reference** : **CAM/12UG/F77/2023/0025**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **42 Dry Drayton Road, Madingley,  
Cambridge, CB23 8AE**

**Applicant (Tenant)** : **Mrs J Dean**

**Respondent (Landlord)** : **University of Cambridge Estate  
Management**

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

**Tribunal members** : **Peter Roberts FRICS CEnv**

**Date of Determination** : **12 October 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 form of determination was a paper determination described above as P:PAPERREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a fair rent of £2,273 per quarter effective from 12 October 2023.**

## **Reasons**

### **Background**

1. On 17 February 2023 the Landlord made an application to register the rent of the Property at £2,200 per quarter.
2. The Rent Officer registered a Fair Rent of £2,178.50 per quarter on 21 March effective from 23 March 2023. This was in lieu of the previous registered rent of £1,724.00 per quarter which was registered on 23 March 2021 and effective from 23 March 2021.
3. The Tribunal notes that the Rent Officer inspected the Property on 9 March 2023 and took the opportunity of discussing the matter with the parties during the inspection. It is therefore the case that the Rent Officer was fully familiar with the Property and the issues prior to registering the Fair Rent.
4. Whilst the Rent Officer assessed the Fair Rent at £2,850 per quarter, the rent was capped by reference to the Retail Price Index as at February 2023 hence the Registered Rent was £2,178.50 per quarter.
5. The Tenant objected by way of an undated letter that was received by the Rent Officer on 19 April 2023. The matter was referred to the First Tier Tribunal, Property Chamber.
6. The Tribunal issued directions on 4 July 2023, inviting the parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.
7. Neither Party requested a hearing.

### **The Property**

8. The Tribunal inspected the Property on the 12 September 2023 accompanied by the Tenant. The Landlord did not attend.
9. The Property comprises a semi-detached period two-storey cottage of brick and tile construction providing shower room, kitchen, and lounge at ground floor and three bedrooms at first floor level located in a rural setting outside a small village on the outskirts of Cambridge.
10. There is central heating and, with the exception of the internal hallway and shower room, the former single windows have been replaced with double

glazing. However, the standard of workmanship is poor and the window to the front bedroom is the wrong size and appears to have effectively been jammed into position leaving gaps thereby negating its effectiveness.

11. The internal finish is poor and would benefit from complete refurbishment. In this regard, whilst the Tribunal understands that the shower room was provided by the Landlord, it lacks proper ventilation, still has poor quality single glazed windows and there is a distinct lack of insulation.
12. There is clear evidence of damp, mould and mildew throughout the Property which is particularly prevalent upstairs.
13. The external woodwork and elevations are in a poor state of repair which suggests that there has been limited work carried out by the Landlord. The implementation of repair work is dependant upon both a willingness by the Landlord to carry out the work and the provision of access by the Tenant. It is therefore in both parties' interests to work together in this regard.
14. There is a prefabricated garage to the side which is understood to belong to the Landlord and various outbuildings which belong to the Tenant.
15. The Tribunal is aware that the EPC rating is Band E which is the bare minimum required to enable the Property to be lawfully let. In this regard, the accompanying breakdown rates the insulation to the walls, roofs and windows as "very poor".
16. The Tribunal appreciates that this assessment was undertaken in August 2021 which was prior to the replacement of the windows but, nevertheless, it is clear from the Tribunal's inspection that there remain significant issues.

## **The Law**

17. The relevant law is set out in section 70 of the Rent Act 1977 (the Act) and The Rent Acts (Maximum Fair Rent) Order 1999 (the Order).
18. Section 70 (1) of The Act provides that in assessing the rent:

*"regard shall be had to all the circumstances (other than personal circumstances) and in particular to—*

- i. the age, character, locality and state of repair of the dwelling-house,*
- ii. if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture and*
- iii. any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy."*

19. Section 70 (2) of the Act provides that:

*"...there shall be disregarded.*

- i. *any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;*
- ii. *any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his*
- iii. *if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.”*

20. In addition, section 70 (2) of The Act requires the Tribunal to assume:

*“that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.”*

21. This latter provision requires the Tribunal 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, the Tribunal is to adjust the rental figure so that the fair rent is not affected by it.

22. 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).”*

23. In considering scarcity under section 70 (2) the Tribunal recognised that:

(a) *“there are considerable variations in the level of scarcity in different parts of the country and that there is no general guidance or “rule of thumb” to indicate what adjustment should be made; the Tribunal therefore considers the case on its merits;*

(b) *terms relating to rent are to be excluded. A lack of demand at a particular rent is not necessarily evidence of no scarcity; it may be*

*evidence that the prospective tenants are not prepared to pay that particular rent.”*

24. Section 71 (1) of the Act provides that the registration of the rent takes effect from the date that the Tribunal makes its decision.
25. Fair rents are subject to a capping procedure under the Rent Acts (Maximum Fair Rent) Order 1999 which limits increases by a formula based on the increase in the Retail Price Index since the previous registration.
26. Section 72 (1) (b) of the Act provides that the registration of a rent takes effect:  
*“...if the rent is determined by the appropriate tribunal, from the date when the tribunal make their decision”*

### **Representations – Tenant**

27. The Tenant’s objection stated as follows:  
*“...I feel I must object to the rent increase until the ongoing jobs have been completed. The electric 5 year test failed last time due to no power in sockets behind fridge which in turn connects to the garage so cannot use my freezer as no power. My bedroom window has not been fitted properly since put in last July so I had to stuff the gap with towels and other clothes. The mould behind bed and hall ceiling due to down pipe leaking onto bathroom roof. The down pipe in front of house is also in need of reconnecting so walls are damp. The sewer has been ongoing for nearly 4 years now. The mould is very bad for my health...”*
28. The Tribunal was advised during the inspection that the down pipe referred to above had since been unblocked and repaired.
29. The Tenant advised the Tribunal that they had enlarged the kitchen into the old pantry/coal store and fitted out as well as tiling the fireplace and making a financial contribution towards rewiring.

### **Representations – Landlord**

30. The Tribunal’s Directions set out a deadline of 25 July 2023 for the Landlord’s Reply and the 15 August 2023 for a response to the Tenant’s comments.
31. A Reply Form completed by Ms Mann on behalf of the Landlord was submitted to the Tribunal on 9 September 2023. The Tribunal allowed this submission on this occasion.
32. The Tribunal notes from this Reply that:
  - a. New double glazed PVC windows were installed in 2022 by the Landlord (invoices were attached by the Landlord)
  - b. It has not been possible to complete a full 5 yearly electrical safety test due to access not being made available

- c. Some repairs have been completed to the drains
  - d. Mrs Dean shares a cesspit with the neighbour and pays the sewage fees but the cesspit needs replacing.
  - e. The Garden house and lean-to was erected by the Tenant's late husband
  - f. The central heating and double glazing was provided by the Landlord but carpets, curtains and white goods belong to the Tenant.
33. No comments have been received by the Tribunal from the Landlord in respect of the Tenant's objection. Furthermore, no rental evidence or valuation breakdown has been provided.

### **Determination**

34. The Tribunal notes that the Tenant is effectively objecting to there being any increase in the rent until the specified jobs are completed. However, the Tribunal has no jurisdiction pursuant to the Act to delay changes in the rent on account of outstanding works.
35. Similarly, the Tribunal has no jurisdiction in these proceedings to order the Landlord to carry out certain work or direct the Tenant to make access available to the Landlord in order to carry out such works. The extent of works required and the timing thereof is therefore a matter for the Parties.
36. The Tribunal can only have regard to the Property as it actually exists subject to the statutory assumptions and disregards as set out above and is unable to delay the implementation of rent increase on account of outstanding works.
37. The Tribunal is also unable to take into account the personal circumstances of the Parties. As such, the assessment of rent has no regard to the personal, financial or health circumstances of either party. In effect, the parties are assumed to be hypothetical rather than actual.
38. As set out in the Spath case as referred to above, the first step is to determine the rent which a 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. The rent currently paid and/or registered is not relevant to this exercise.
39. It is clear that the Property would require significant refurbishment and refitting to bring it into a state commensurate with market expectations regardless as to whether or not it was in full repair and decoration.
40. It is necessary to deduct for outstanding disrepair that is the responsibility of the Landlord and tenant's improvements that have value in the market such

as, for example, the kitchen alterations together with the scarcity of alternative similar accommodation.

41. Taking these points into account, the Tribunal considers the Fair Rent to be £2,700. per quarter.
42. However, 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 this Decision, or the Fair Rent decided by the Tribunal, whichever is the lower.
43. The Tribunal notes that the previous rent detailed on the Rent Register was £1,724 per quarter. The current calculated capped rent is therefore £2,273 per quarter and the rent payable may not exceed this amount.
44. The capped rent of **£2,273 per quarter** is to be registered.
45. It is important to stress that the capped rent as calculated by the Tribunal is higher than the capped rent calculated by the Rent Officer due to the increase in the RPI since the date of the Rent Officer's assessment.
46. The Tribunal also directs that the revised rent takes effect from the date of this Determination.

**Name:** Peter Roberts FRICS CEnv

**Date:** 12 October 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).

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