



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

Case Reference : **CHI/00HX/F77/2024/0024**

Property : **34 Coleshill
Coleshill
Swindon
Wiltshire
SN6 7PR**

Applicant Landlord : **The National Trust**

Representative : **None**

Respondent Tenant : **Miss K Hearn**

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
Mr M J Ayres FRICS
Mr S J Hodges FRICS**

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

Date of Decision : **13th August 2024**

DECISION

Summary of Decision

On 13th August 2024 the Tribunal determined a Fair Rent of £800 per month with effect from 13th August 2024.

Background

1. On 19th January 2024 the Landlord applied to the Rent Officer for registration of a fair rent of £647 per month.
2. This was a first registration of rent for the property.
3. A new rent of £783.75 per month was registered by the Rent Officer.
4. This new rent was effective from 7th March 2024.
5. On 28th March 2024 the Tenant objected to the new rent and the matter was referred to the First-Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee.
6. The Tribunal does not routinely 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.
7. The Tribunal office issued directions on 5th July 2024 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.
8. 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.
9. Both parties made a submission to the Tribunal, which was copied to the other party,
10. These reasons address **in summary form** the key issues raised by the parties. They do not recite each and every point referred to either in submissions or during any hearing. However, this does not imply that any points raised, or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, then it was considered by the Tribunal. The Tribunal concentrates on those issues which, in its opinion, are fundamental to the application.

The Law

11. 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.

12. 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).
13. 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.
14. The tenancy is a statutory (protected) periodic tenancy and as such (not being for a fixed tenancy of 7 years or more) is subject to section 11 of the Landlord and Tenant Act 1985 which sets out the landlords statutory repairing obligations; the tenant is responsible for internal decorations.

The Property

15. From the information provided and available on the internet, the property can be described as a period stone built cottage situated in a small village of similar properties which form part of the Coleshill Estate, on the border between North Wiltshire and West Oxfordshire.
16. The original application to the Rent Officer describes the property as being semi-detached with accommodation including a Hall, Living Room, Kitchen and Bathroom all at ground level with 3 Bedrooms above.
17. Outside there is a Garden but no Garage or Off-Street parking.
18. The nearest main facilities are at Highworth, a small town about 2 ½ miles away.
19. The Energy performance rating is 'E'.

Evidence and Representations

20. The original tenancy began on 16th July 1980.
21. The Rent Register describes the property as being terraced, dating from before 1918 and modernised with full central heating.
22. The Tenant paid for the original installation of the central heating but states that the Landlord replaced the boiler when it became necessary some years later. This is confirmed by a letter from the Landlord dated 5th November 1999 in which the Landlord says that the heating will be considered as a Tenant's improvement and will be written off over 15 years.
23. The Tenant states that the property is not 'modernised' as the kitchen and bathroom fittings are as they were when she inherited the tenancy in 1980, and that carpets, curtains and white goods are all supplied by her.
24. The Tenant states that she has carried out internal decoration, fitted some door and window locks, and has brought the gardens up to a good standard-including the provision of some fencing. She provides several helpful photographs. She also refers to some repair issues including dampness which would be expected in a property of this age and type.
25. The Landlord confirms most of these details, maintains that the kitchen and bathroom are serviceable and provides evidence of similar properties let in the open market at rents between £1,100 per month and £1,750 per month.
26. The Tribunal had regard to the observations and comments by the parties and also relied on its own knowledge and experience of local rental values in determining the rent.

Valuation and determination

27. 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. From the documents provided and from the internet the Tribunal was unable to establish whether the property is semi-detached or terraced, but it is certainly attached. The Tribunal did not consider that this would materially affect the rent for such a cottage.
28. 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. Market rents are usually expressed as a figure per month and a letting would normally include floorings, curtains and white goods to all be provided by the Landlord.
29. In determining an 'open market rent' the Tribunal had regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in the area of North Wiltshire/West

Oxfordshire. Having done so it concluded that such a likely market rent would be £1,200 per calendar month.

30. 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 £1,200 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.
31. Further adjustments were necessary to reflect the Tenant's liability for internal decoration, the Tenant's provision of the central heating system-less the boiler, dated Kitchen and Bathroom and general condition including some damp.
32. The Tribunal therefore considered that this required a total deduction of £400 per month made up as follows:

Tenant's provision of carpets and curtains	£50
Tenant's provision of white goods	£30
Tenant's liability for internal decoration	£40
Unmodernised bathroom	£50
Unmodernised kitchen	£120
Tenant's provision of central heating, 50% only, to take account of Landlord replacing boiler when required	£60
General repair including dampness	<u>£50</u>
TOTAL per month	£400

33. The Tribunal noted the number of properties available to rent in the wider area as advertised on Rightmove and Zoopla and concluded that there was no substantial scarcity element in the area of North Wiltshire and West Oxfordshire.

Decision

34. 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 £800 per calendar month.
35. The Section 70 Fair Rent determined by the Tribunal is not affected by the Rent Acts (Maximum Fair Rent) Order 1999 as this is the first registration of rent for the property.
36. This figure is higher than the rent proposed by the Landlord when the original application was made in January 2024. The landlord is not obliged to charge this higher rent.

Accordingly the sum of £800 per month will be registered as the Fair Rent with effect from the 13th August 2024, this 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.