



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

Case Reference : **BIR/39UB/F77/2024/0039**

Property : **1 Old Cottage Grindle Shifnal Shropshire
TF11 9JR**

Landlord : **Trustees of Goulburn Settled Estates**

Representative : **Apley Estate Office**

Tenant : **Mr Pete Harris**

Type of Application : **An application under section 70 of the Rent
Act against the Fair Rent assessed for the
Property by the Rent Officer**

Tribunal Members : **V Ward BSc Hons FRICS
T. Wyn Jones BSc Dip Surv FRICS**

Date of Decision : **22 November 2024**

**Date of Statement
Of Reasons** : **14 January 2025**

STATEMENT OF REASONS

DECISION

1. The fair rent determined by the Tribunal for the purposes of Section 70 is £149.00 per week with effect from 22 November 2024.

BACKGROUND & REASONS FOR THE DECISION

2. On 8 July 2024, the Rent Officer registered a rental of £110.00 per week in respect of the Property, effective from the same date. The rent prior to this registration was £99.00 per week.
3. By way of a letter dated 16 July 2024, the Landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.

THE PROPERTY

4. The Tribunal carried out an inspection of the Property on 22 November 2024.

5. Present at the inspection were:

The Tenant, Mr Pete Harris and Mrs Dorothy Harris who were assisted by their daughter, Ms Jean Harris.

On behalf of the Landlord, Mr Graeme Manton, the Apley Estate Manager, Ms Tanya Moss, Lettings Manager and Mr Louis Parkin, Graduate Surveyor (observing) were present.

6. The Property is situated in a rural location approached via a short driveway from the adopted highway. The small village of Grindle is a short distance away to the east whilst the town of Shifnal is approximately 4 miles to the north.
7. The Property is a Grade II listed cottage which forms part of the Apley Estate and which is close proximity to some of the agricultural buildings forming part of the Estate.
8. The accommodation comprises the following:

Ground Floor	Hall with access off to kitchen, two reception rooms, small bathroom with suite comprising bath with shower, wash hand basin and WC.
First Floor	Three bedrooms.
Externally	Garage, various outbuildings, gardens side and rear, loose surfaced parking area.

9. The Property benefits from mains electricity. Water is provided by the Estate supply whilst drainage is via private means. There is oil fired central heating however currently, hot water is provided by the back boiler to the Rayburn. Windows are partially double glazed.

Submissions of the Parties

10. Both parties requested a hearing and by kind courtesy of Mr and Mrs Harris, it was held at the Property following the inspection.
11. The submissions of the parties both at the hearing and in their written submissions were as follows.

The Landlord

12. The Landlord stated that over the last two years, they had carried out extensive repairs to the Property including the installation of an oil-fired heating system which related to the specific comment in their objection to the Rent Officer as follows:

“I wish to raise an objection to this increase on the bases that we have upgraded the heating system to an oil fired boiler to heat the property throughout and the hot water system.”

13. Currently, hot water for the Property was provided by the back boiler to the Tenant’s Rayburn at the Tenant’s request, however, the new system would if necessary provide hot water.
14. At the request of the Tribunal, subsequent to the hearing, the Landlord confirmed to the Tribunal and the Tenant, the costs of these works generally and the costs of the heating system specifically. These were given as follows:

Total cost of works (including heating system but excluding labour)	£32,229.73
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Costs relating to the installation of the oil fired heating system	£11,312.32
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15. The Landlord sought a rental of £150.00 per week. In support of this some they had provided details of three other properties on the Estate which were also occupied on Rent Act 1977 tenancies.

These were as follows:

Property	Post Code	No of Beds	Style	Rent (pcm)
5 New Houses, Grindle, Shifnal	TF119JP	3	Semi - detached	£448.00
White House, Hartlebury, Bridgnorth	WV15 5LX	3	Detached	£527.00
2 Home Farm Bungalows, Apley Park, Shifnal	TF11 9EJ	2	Detached	£455.00

The Tenant

16. The representations by the Tenant focussed on the fact that they had struggled to get repairs done and had felt it was necessary to contact the Local Authority. This resulted in some works being done. At the time of the hearing, Mr Harris stated that the following were outstanding:

- Dampness to the south facing wall.
- Garage locking mechanism.

The Landlord had recently installed an oil-fired heating system (see above) however the prior to this, the house was partially heated by the Rayburn which had been installed by the Tenant.

17. In respect of the additional cost information provided by the Landlord, the Tenant made the comment that they did not believe that all of the costs set out in the general schedule related to their Property. In addition, they noted that some works were still outstanding as set out above.

THE LAW

18. 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.

19. In *Spath Holme Limited v Chairman of the Greater Manchester, etc. Committee* [1995] 28HLR107 and *Curtis v London Rent Assessment Committee* [1999] QB92, 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 were usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

VALUATION

20. In the first instance, the Tribunal determined what rent the Landlord could reasonably expect to obtain for the Property in the open market if it were let today in the condition that is considered usual for such open market lettings. The evidence provided by the Landlord was not relevant as it related to other properties that were occupied by Tenants on Rent Act 1977 tenancies hence the rents were “registered rents” ie not open market rents.
21. From the Tribunal’s own general knowledge of market rent levels in the east Shropshire area it concluded that such a likely market rent would be in the order of £1,250.00 per calendar month i.e. £290.00 per week. However, the Property is not in the same condition as properties in the general market. To reflect these factors, the Tribunal made deductions as follows (£ per week):

General Condition	£20.00
Kitchen Facilities	£20.00
Small Bathroom	£20.00
<u>Partial Double Glazing</u>	<u>£20.00</u>
Total	£80.00

22. A further adjustment of £20.00 per week was made to allow for the Tenant’s fittings (floor coverings, curtains and white goods).
23. To allow for the Tenant’s decorating liability, it was necessary to make an additional deduction of £14.50 per week.
24. The Tribunal then considered the question of scarcity. This was done by considering whether the number of persons genuinely seeking to become tenants of similar properties in the wider area of the West Midlands on the same terms other than rent is substantially greater than the availability of such dwellings as required by section 70(2) of the Rent Act 1977.
25. The Tribunal finds that many landlords dispute that scarcity exists because they are of the opinion that the market is ‘in balance’. Although tenants do not in all cases have difficulty in finding accommodation, this ignores the fact that it is the price of such accommodation which creates a balance in the market. Section 70(2) specifically excludes the price of accommodation from consideration in

determining whether there are more persons genuinely seeking to become tenants of similar properties than there are properties available.

26. The Tribunal found that there was scarcity, there is a lack of properties available to rent generally and particularly in rural locations and, accordingly, made a further deduction of £26.33 per week representing approximately 15% of the adjusted rental.
27. This leaves a fair rent for the subject property of £149.17 per week (rounded to £149.00 per week) summarised as follows:

Fair Rent with the benefit of central heating

Rental per week		£290.00
Deductions (see above)	£80.00	
Tenants Fittings	£20.00.	
Decorating	£14.50	
Rental after deductions		£175.50
Scarcity	<u>£26.33</u>	
Fair Rental		£149.17
Say		£149.00

28. The Tribunal then considered the matter of whether the works carried out by the Landlord took the rental out of the capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 if there has been a change in the condition of the because of repairs or improvements carried out by the landlord, and that change alone would have increased the existing registered rent by at least 15%.
29. Whilst the Tribunal notes that the Landlord has incurred significant costs in the maintenance of the fabric of the Property other than those relating to the installation of the heating system, these are not relevant on this point. Maintenance of the Property in a good state of repair is a statutory obligation of the Landlord. In addition, the fact that the Property benefitted from partial heating installed by the Tenant is not relevant in consideration of this point, for which there was an allowance made in the calculation of the previous registered rent.
30. The Tribunal considered that the installation of central heating would make a significant difference to the rental achieved. There are few properties let without either full or partial heating systems hence there is little hard evidence available. However, the Tribunal is composed of two experienced Chartered Surveyors both with extensive experience in rural properties and they consider that the installation of a heating system would make a difference of at least 15% and possibly significantly more to the existing registered rent.

31. Accordingly, the capping rules do not apply, and therefore do not affect the rent payable.
32. Therefore, the fair rent determined by the Tribunal for the purposes of Section 70 was £149.00 per week with effect from 22 November 2024.
33. For information only, the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 would be £126.50 per week. Details of the maximum fair rent calculation are provided with the decision. As indicated above this is of no effect.
34. In reaching its determination, the Tribunal had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert Tribunal but not any special or secret knowledge.

APPEAL

35. 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 (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013) stating the grounds upon which it is intended to rely in the appeal.

V Ward