



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

Case reference	:	HAV/29UH/F77/2025/0603
Property	:	2 Orchard Cottages Bicknor Sittingbourne Kent ME9 8AU
Applicant Landlord	:	Paynes Stores Limited
Representative	:	Mrs S Burbridge, Director, Paynes Stores Limited
Respondent Tenant	:	Mrs V Marsh
Representative	:	None
Type of application	:	Determination of a Fair Rent Section 70, Rent Act 1977
Tribunal member(s)	:	Mr J G G Wilson MRICS FCIArb Mr S Hodges FRICS Judge R Percival
Date of inspection	:	None, Determination on Papers
Date of decision	:	27 March 2025

DECISION

Decision of the Tribunal

On 27 March 2025 the Tribunal determined a Fair Rent of £805 (Eight Hundred and Five Pounds) Per Month, to take effect from 27 March 2025.

The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply as the rent of £820 per month that would otherwise have been registered is greater than the maximum prescribed.

Background

1. On 29 October 2024 the landlord submitted an Application for Registration of Fair Rent ('RR1') to the Rent Officer to register a fair rent of £1,200 per month for the property, 2 Orchard Cottages, Bicknor, Sittingbourne, Kent, ME9 8AU ('the property').
2. This was an application to re-register the fair rent from its previous registration of rent for the property of £700 per month, effective from 27 October 2022.
3. A new rent of £770 per month was registered by the Rent Officer, effective from 29 November 2024.
4. In an email dated 7 January 2025 to the Valuation Office Agency ('VOA') Mrs Burbridge, a Director of Paynes Stores Limited (the landlord), gave her objection to the new rent registered and the matter was referred to the First-Tier Tribunal Property Chamber (Residential Property), formerly a Rent Assessment Committee.
5. The Tribunal issued Directions dated 15 January 2025. The Tribunal does not consider it necessary and proportionate in cases of this nature neither to undertake an inspection, nor to hold a Tribunal hearing unless either are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal in its Directions informed the parties that, unless either party objected, the Tribunal intended to determine the rent on the papers (written representations), paragraph 5.
7. Similarly, the parties were informed the Tribunal will not inspect the property but will seek to view it on the internet; and goes on to say if it considers it necessary, it may carry out an external inspection, paragraph 6.
8. The parties were directed to complete and return their Fair Rent Appeal Statement ('Statement') to form their statement of case, within specific time limits, paragraphs 8 – 12 inclusive. The Statement provides for photographs to be attached, to assist the Tribunal to understand the case and to help the party to present the issues.
9. Mrs Burbridge submitted her Statement on 21 January 2025, in accordance with the Tribunal's Directions. Mrs Marsh submitted her Statement on 6 March 2025; with her application and request for case management form attached and dated 5 March 2025.

10. Mrs Marsh requested that her late submissions be accepted by the Tribunal and goes on to explain that she had not received the Tribunal's Directions dated 15 January 2025.
11. Having carefully considered the tenant's case management application seeking permission to submit late representations, notwithstanding the landlord had filed its submissions in accordance with the Tribunal's Directions, having in mind the overriding objective to deal with matters fairly and justly, the Tribunal did not consider that the landlord would be prejudiced by the acceptance of the tenant's submissions, out of time. Accordingly, the case management application was granted, and the Tribunal will have regard to both the landlord's and the tenant's submissions to reach its determination of the Fair Rent.
12. In broad terms, whereas each Statement includes a description of the property, neither included any photographs, nor a floor plan.

The Property

13. The Tribunal did not inspect the property but considered this case on the papers provided by the parties and information freely available on the internet.
14. 2 Orchard Cottages is a two-storey, mid-terrace house of traditional brick construction and pitched tiled roof. In the RR1 dated 29 November 2024 the number and type of room(s) is listed as: ground floor – one room, kitchen, bathroom and WC, and first floor - three rooms. Outside, there is a parking space and a private garden.

The Tenancy Agreement

15. Whereas the Tribunal has not been provided with a copy of the tenancy agreement, it is understood to have commenced on 16 May 2002. Neither services nor furniture are provided by the landlord. Council Tax and other rates are borne by the tenant. Section 11 of the Landlord and Tenant Act 1985 applies; the tenant is responsible for internal decorations only.

Submissions – Fair Rent Appeal Statements

16. It is not the Tribunal's intention to give an analysis of all the evidence listed, but to outline the overall valuation approaches of the parties, to show that all aspects have been considered.
17. On behalf of the landlord, in her Statement, under 'Improvements' and 'Disrepair/Defects', Mrs Burbridge says both a new bathroom and a new wood-burner were provided in 2024 and outlines other works too.
18. Mrs Burbridge does not provide an assessment of the rental value of the property but says numbers 1 and 3 Orchard Cottages, both next door and understood by the Tribunal to form the same terrace as the property, let for '1,022' [sic], with no further details given.
19. On the question of whether the Maximum Fair Rent Order should not apply, Mrs Burbridge says, "The work done and the lifestyle of the tennant, repairs will be ongoing therefore some help is needed!!" [sic].

20. Under 'Whether the demand for such properties exceeds supply' Mrs Burbridge says, "We have a waiting list for our properties."
21. In her Statement, Mrs Marsh confirms the outline accommodation and the features of the property given by Mrs Burbridge and goes on to outline the maintenance issues with the bathroom and the wood-burner.
22. Under 'Disrepair/Defects' Mrs Marsh says the only fittings supplied by the landlord is the kitchen sink. Mrs Marsh goes on to say there is no form of public transport for people living in Bicknor and the nearest train station is in Hillingbourne, four miles away. With respect to the rental value, Mrs Marsh says the fair rent registered by the Rent Officer effective from 29 November 2024 is fair.
23. Mrs Marsh neither gives submissions on whether the capping legislation should apply, nor whether the demand for such properties exceeds the supply.

The Law

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 any other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.

In *Spath Holme Ltd v Chairman of the Greater Manchester & Lancashire Rent Assessment 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 comparable lettings. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparable lettings and the subject property).
24. The Tribunal is also 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 ('RPI'). 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.
 25. 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.

26. 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 landlord's statutory repairing obligations; the tenant is responsible for internal decorations.

Considerations and Valuation

27. The Tribunal first considered whether it felt able to decide this case reasonably and fairly based on the papers submitted only, with no oral hearing. Having read and considered the papers the Tribunal decided it could do so.
28. In the first instance the Tribunal determined the market rent per month the landlord could reasonably expect to receive on the valuation date, 27 March 2025, on the assumptions the property was in good condition, with floorings, curtains and white goods provided by the landlord.
29. After reviewing the rental values of the comparable lettings' properties given by the Rent Officer, the evidence of the parties, and of its own expert, general knowledge of rental values in the area, the Tribunal determines that the market rent for the property in good tenantable condition is £1,250 (One Thousand, Two Hundred and Fifty Pounds) Per Month, before any adjustment(s) which it deemed applicable were to be applied.
30. From the evidence in the parties' Appeal Statements, the Tribunal has determined that adjustments to the market rent are to be applied to reflect the following:
- The property has no Central Heating.
 - The Tenant's provision of carpets and curtains.
 - The Tenant's provision of the White Goods.
 - The Tenant's responsibility for internal decorations.
 - The unmodernised kitchen.

31. The Tribunal concluded a deduction in aggregate of £430 per month be applied to the market rent, made up of as follows:

No Central Heating	£150
Tenant's provision of carpets and curtains	£50
Tenant's provision of White Goods	£30
Tenant's responsibility for internal decorations	£50
An unmodernised kitchen	<u>£150</u>
TOTAL £ Per Month	£430

32. £1,250 per month minus £430 per month to equal £820 per month.
33. Turning to the question of scarcity, whereas Mrs Burbridge says, "We have a waiting list for our properties", the Tribunal had regard to the schedule of properties provided by the Rent Officer and of its own expert, general knowledge of the lettings market in the area and concluded there is no adjustment

required for scarcity.

34. On the question of whether the capping legislation should apply, what Mrs Burbridge says at paragraph 19 above is not evidence from which the Tribunal can deduce to determine to disregard the Order.

Decision

35. Accordingly, having made the adjustments listed above, the Tribunal determined the Fair Rent of the property be re-registered at **£805 (Eight Hundred and Five Pounds) Per Month, to take effect from 27 March 2025.**
36. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply as the rent of £820 per month that would otherwise have been registered is greater than the maximum prescribed.

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 a 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 days' 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 days' 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.