



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

Case reference : **CHI/19UE/F77/2020/0019**

Tenant : **Mr H Galpin (Tenant)**

Landlord : **Bryanston (RFE) Ltd**

Property : **14, Durweston, Blandford Forum,
Dorset, DT11 0QA**

Representative : **V Porter of Savills (UK) Ltd**

Date of Objection : **Referred to First-tier Tribunal
by Valuation Office Agency on
3rd July 2020**

Type of Application : **Section 70 Rent Act 1977 (the Act)**

Tribunal : **Mr R T Brown FRICS
Mr M Woodrow MRICS**

Date of Decision : **25th August 2020**

REASONS FOR DECISION

Background

1. The Tribunal gave formal notice of its decision by a Notice dated 25th August 2020 that the rent would be **£775.00 per calendar** with effect from the same date.
2. On the 3rd February 2020 the landlord's agent of the above property applied to the Rent Officer for registration of a fair rent of £900.00 per calendar month. The rent having been previously determined by the Rent Officer at £750.00 per calendar month on 9th April 2018 and effective from the 5th May 2018.
3. On the 13th March 2020 the Rent Officer registered a fair rent of £817.00 per calendar month effective from 5th May 2020.
4. The Tenant, in a letter received on the 3rd April 2020, objected to the rent determined by the Rent Officer and the matter was referred to the First-tier Tribunal (Property Chamber) (Residential Property).
5. The tenancy appears to be a statutory protected periodic tenancy. The original agreement is dated 10th March 1981 (effective from 15th December 1980) on a monthly basis determinable by either party on one month's notice. The tenancy (not being for a fixed periodic tenancy of 7 years or more) is subject to Section 11 of the Landlord and Tenant Act 1985 (the landlord's statutory repairing obligations).

Inspection

6. Following the Directions dated 21st July 2020 and the explanation contained therein, the Tribunal did not inspect the premises.
7. Extracting such information as it could from the papers supplied to the Tribunal by the parties, by reference to information publicly available on the internet and with the benefit of its knowledge and experience, the Tribunal reached **the following conclusions and found as follows:**
8. The property comprises a two storey semi detached house.
9. The accommodation is said to comprise: Ground Floor: Two reception rooms, kitchen and bathroom. First Floor: Three bedrooms. Outside: Gardens and garage.
10. All mains services are assumed to be connected. There is central heating.
11. The property is assumed in tenantable decorative order. The tenant claims in his Reply Form (not disputed by the Landlord's agent) that the kitchen and bathroom were fitted in 1981 at the tenant's expense. Further there are no carpets, curtains or white goods provided by the landlord.

12. The Tribunal noted during its consideration:
 - a) The property was let unfurnished and does not include carpets curtains or white goods.
 - b) There is central heating but apparently no double glazing.

13. The Tenant in his letter to the Rent Officer and in his subsequent application (which included the FTT reply form) said that the rent went up on 5th May 2018 and is going up again on 5th May 2020 at a rate of 17.5% approx. The Tenant suggested an increase in line with the cost of living (1.50 -2.00% per annum) is appropriate. The Tenant draws the Tribunal's attention to:
 - a) External decorating by Landlord in summer 2019.
 - b) Leaking windows in certain rooms
 - c) Kitchen and bathroom renewed at Tenant's cost in 1981.

14. The Landlord's agent made no formal response to the application

The Law

15. When determining a fair rent the Tribunal, in accordance with section 70 of the Rent Act 1977, had regard to all the circumstances including the age, location and state of repair of the property. It 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.

16. In *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee (1995) 28 HLR 107* and *Curtis v London Rent Assessment Panel [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).

17. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent may be increased to a maximum 5.00% plus RPI since the last registration.

18. 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.

Tribunal's deliberations

19. The Tribunal considered the matter with the benefit of the submissions of the parties.
20. The Tribunal, acting as an expert tribunal, determined what rent the landlord could reasonably be expected to obtain for the subject property in the open market if it were let today in the condition and subject to the terms of such a tenancy that is considered usual for such an open market letting. It did this by having regard to the evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in the wider area of Dorset. Having done so, it concluded that such a likely market rent for a similar property in fair condition with central heating, modern bathroom and kitchen facilities would be **£925.00 pcm.**
21. However, the subject property is not in the condition considered usual for a modern letting at a market rent. It is therefore necessary to adjust that hypothetical rent of **£925.00 pcm** to allow for the differences between the condition considered usual (including responsibility of tenants to maintain decorations as opposed to decorate) for such a letting and the condition of the actual property as stated in the papers (disregarding the effect of any disrepair or other defect attributable to this tenant or any predecessor in title), and the improvements carried out by the Tenant.
22. If this property were to be let on the open market it would of course come on the market in its present condition and not in the condition normally seen in such market lettings. The Tribunal considers that to reflect these matters, a deduction should be made to the hypothetical rent.
23. The Tribunal considers that a deduction should also be made to reflect the lack of floor coverings, curtains, and white goods.
24. The Tribunal considers that to reflect these matters the following deductions should be made:
 - a) Decoration liability £45.00
 - b) Lack of fitted kitchen and bathroom £40.00
 - c) White goods £20.00
 - d) Carpets and curtains £30.00
 - e) General disrepair (leaking windows) £15.00
25. A total deduction of **£150.00 pcm** to the hypothetical rent.
26. This leaves a fair rent of **£775.00 pcm.**

Scarcity

27. The matters taken into account by the Tribunal when assessing scarcity were:-
 - a) The Tribunal interpreted the 'locality' for scarcity purposes as being

the area of Blandford Forum and the wider area of Dorset (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) Local Authority and Housing Association waiting lists.
- c) House prices which could be an indicator of increased availability of housing and a reduction in scarcity.
- d) Submissions of the parties.
- e) The members of the Tribunal have between them many years of experience of the residential letting market and that experience leads them to the view that there is no substantial shortage of similar houses available to let in the locality defined above.

28. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for a particular type of house in the private sector or the exact number of such properties available. It can only be a judgment based on the years of experience of members of the Tribunal. However, the Tribunal did not consider that there was a substantial scarcity element and accordingly made no further deduction for scarcity.

29. This leaves a fair rent for the subject property of **£775.00 pcm**.

Relevant Law

30. The Rent Act 1977.

31. Rent Acts (Maximum Fair Rent) Order 1999. In particular paragraph 7 which states:

This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.

Rent Acts (Maximum Fair Rent) Order 1999

32. The rent to be registered is not limited by the Fair Rent Acts (Maximum Fair Rent) Order 1999 because it is below the maximum fair rent (see calculation on reverse of decision sheet) of **£824.00 pcm and accordingly the sum of £775.00 pcm** will be registered as the fair rent on and with effect from 25th August 2020 being the date of the Tribunal's decision.

Robert T Brown
Chairman

RIGHTS OF APPEAL

1. A person wishing to appeal this decision (on a point of law only) to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application 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