



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

Case Reference : **CAM/00MD/F77/2019/0010**

Property : **Culver Cottage, Bampton Road, Clanfield,
Bampton, Oxfordshire OX18 2RG**

Applicant (Landlord) : **Dorrington Residential Limited**
Representative : **Allsop Letting & Management Ltd**

Respondent (Tenant) : **Mr P Barnard**

Type of Application : **Determination of a fair rent under
Section 70 of the Rent Act 1977**

Tribunal Members : **Judge JR Morris**
Mrs Wilcox BSc MRICS

Date of Decision : **4th June 2019**

DECISION

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DECISION

1. The Fair Rent for the Property payable from 4th June 2019 is determined to be £1,100.00 per calendar month which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £1,176.50 per calendar month.

REASONS

THE PROPERTY

2. The Property is a two-storey detached house of stone under a pitched stone slate roof constructed circa 1700. Originally two cottages converted to a single dwelling in mid to late 1970s. The doors are timber as are the windows which are single glazed.

Accommodation

The front door opens into a lobby to the one side of which is the kitchen and to the other is the living room. Stairs rise from the living room to the first floor.

On the first floor there is a long landing with three bedrooms (two double and one single) and a bathroom. There is an undercroft giving access to the garden between the kitchen and what were originally two storerooms under one of the bedrooms. The store rooms have been converted by the tenants into an annex of a bedroom with en suite shower room and a utility room. In addition, there is a stone dovecote which opens to one side, with a corrugated asbestos cement roof. There is a gravel drive with parking for several vehicles to the front and a large garden at the rear.

Services

The Property has mains electricity, water and drainage. Space and water heating are by an oil central heating system which is supplemented by a range situated in the kitchen, which was converted to oil by the Tenant.

Furnishing

The Property is let unfurnished.

Location

The Property is situated in a rural village about two miles from Bampton which has some local shopping and approximately six miles from Witney which has a range of facilities.

THE TENANCY

3. The Tenancy is a statutory regulated weekly tenancy, which commenced on 1st November 1985. Being a tenancy for 7 years or less, section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations. The Tenant is responsible for internal decoration.

THE REFERRAL

4. The current rent is £1,050.00 per calendar month week registered on 10th March 2017 and effective from 6th May 2017. The Landlord by a notice in the prescribed form received by the Valuation Office Agency on 11th February 2019 proposed a new rent of £1,260.00 per calendar month. On 6th March 2019 the Rent Officer registered a rent of £1,100.00 per calendar month effective from 6th May 2019. The registered rent was not a capped rent under the Rent Acts (Maximum Fair Rent) Order 1999 as the capped rent was higher than that set by the Rent Officer. On 3rd April 2019 the Landlord referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations and a hearing.

THE INSPECTION

5. The Tribunal inspected the Property in the presence of the Tenant and Mrs Barnard.
6. Externally the Property is in fair condition with regard to the stone work and roof. The timber single glazed windows require repainting and several of the sills have exposed wood. The Tenant has replaced two of the windows. There is some minor water ingress around at least own window which might be

remedied in the course of re-painting by the application of sealant. The rainwater goods are upvc. The rear garden is well maintained by the Tenant and some improvements made by extending the paved sitting area and replacing fencing.

7. Internally, the Property is well maintained by the Tenant. The kitchen is relatively dated notwithstanding the Tenant's improvements in adding/replacing units and work top and converting the solid fuel range to oil. The Tenant said he had added electrical sockets in keeping with the needs of modern living. The dog grate in the living room has been replaced by the Tenant. The bathroom and w.c. would be basic and dated but for the Tenant's improvements. The Tenant has replaced the bathroom suite and installed a shower cubicle with related tiling. The Tenant has also added cupboards the whole length of the landing and has had a range of wardrobes fitted in the bedrooms. The floorcoverings, curtains and white goods are not provided by the Landlord.
8. The annex created by the Tenant from the two storerooms is a significant improvement to the Property. The Tribunal noted that the Landlord had tanked a part of the store room/annex wall to remedy damp.

THE LAW

9. The law applicable to this application is contained in the Rent Act 1977.

REPRESENTATIONS

10. In written representations the Landlord's Agent referred to the Property as having 5 habitable rooms comprising four bedrooms, a kitchen, a living room and two bathrooms together with a driveway and front and rear gardens.
11. The Landlord's Agent had mistakenly referred to the location as being in Clanfield, Hampshire near the A3, Petersfield and Portsmouth. However, the properties given as being comparable in respect of rental values were in the correct locality.
12. The rental values for properties which were said to be comparable and for which details published on the internet were provided were as follows:
 - Victoria Road, Quenington – detached house in riverside location with 3 double bedrooms one with ensuite, a bathroom, modern fitted kitchen, two spacious reception rooms, oil fired central heating, let at £1,850 per calendar month;
 - School Road, West Hanney, Wantage - semi-detached house with four bedrooms (three double, two with ensuite), modern kitchen with integrated appliances, large living area, let at £1,800 per calendar month;
 - Buckland Road, Bampton – modern detached house with four bedrooms, two bathrooms, two reception rooms, kitchen, driveway and double garage let at £1,750 per calendar month;

- Bradwell, Burford – modern detached house with 3 bedrooms, let at £1,725 per calendar month (few details given).
13. It was added that there were over 30 comparable properties available in a 10-mile radius of the property and 106 within a 15 mile radius and therefore it was submitted that there was no scarcity of supply inflating rental prices in the area.
 14. The following calculation was submitted:

Market Rent:	£1,750.00 per calendar month
Less	
Carpets/white goods	£90.00
Updated Kitchen/Bathroom	£90.00
Heating	£90.00
Fair Rent	£1,530.00 per calendar month
Capped rent calculated at	£1,154.00 per calendar month
 15. In written representations the Tenant said that to create the fourth bedroom his wife and he paid contractors in or around 1994 to convert what was a storeroom into a bedroom, shower room and utility room, which are situated on the ground floor and can only be accessed by an external door.
 16. The Landlord may not be in breach of the contractual obligations but has been slow to deal with problems e.g. it has taken 3 years to have the damp rectified in what was the ground floor storeroom.
 17. The Tenant said that the Property had been the family home since 1985 and they had invested time, effort and money in maintain the Property. In particular fitting a new boiler (which has since been replaced by the Landlord), installing a new bathroom, refurbishing the Aga and adding a new bedroom, shower room and utility room.
 18. The Property is not energy efficient; the kitchen is small and dated, the property does not have double glazing and is draughty. Several radiators have micro bore pipework which is inefficient. The windows require redecoration and refurbishment.
 19. The hearing was attended by the Tenant and Mrs Barnard but not the Landlord or its Agent. The Tenant gave oral evidence confirming what had been seen on the inspection and referred to in written representations as follows:
 20. The Tenant stated that externally the stone work and roof were in fair condition although it would benefit from some re-pointing. The timber single glazed windows required redecoration and it was feared if this were not done soon, they would start to rot. The Tenant said he had replaced two windows and that there was some water ingress around at least one window frame. The Tenant said he and his wife had maintained the garden and extended the paved sitting area and replaced some of the fencing.

21. The Tenant said that internally the kitchen units had been added to and some replaced and new work top fitted and electrical sockets had also been added over the years. It was also said that the solid fuel range had been converted to oil and that it heated the bathroom towel rail and kept other radiators warm. It was said that the boiler system would struggle to provide adequate heat were it not for the range. The dog grate in the living room has been replaced by the Tenant. The Tenant said he and his wife had replaced the bathroom suite and installed a shower cubicle with related tiling. They said they had also added cupboards the whole length of the landing and had a range of wardrobes fitted in the bedrooms. They said the floorcoverings, curtains and white goods were also theirs.
22. They said they had converted the two storerooms into an annex of a bedroom with en suite shower room and a utility room. They confirmed the landlord had tanked a part of the store room/annex wall to remedy damp.
23. It was added that the dovecote was only suitable to be used as a wood store and that the undercroft was too narrow for a car.
24. With reference to the rental value of the properties referred to by the Landlord's Agent as being comparable, in written representations the Tenant stated that:
25. The four-bedroom detached house in Buckland Road Bampton is modern with a double garage modern spacious kitchen 2 large well equipped bathrooms as well as a conservatory and a considerably larger floor area than the property.
26. The four-bedroom house in School Lane West Hanney is modern with a large well fitted kitchen, 2 ensuite bathrooms with substantial and spacious living area and dining room which are much larger than at the Property.
27. The three-bedroom detached house in Victoria Road, Quenington is fully furnished with substantial reception rooms, an open plan office space and a full range of white goods. The internal gross floor area is substantially larger than the Property and the house is situated in one of the most sought after areas of the Cotswolds.
28. All the properties benefit from double glazing, unlike the Property.
29. The Tenant submitted that there must be scarcity of supply since the Landlord's Agent was not able to find comparable properties to the Property.
30. At the hearing the Tenant said that the properties that were put forward by the Landlord's Agent which were said to be comparable were larger with more modern facilities than the Property as let without the Tenant's improvements. They added that the Property as let had three bedrooms not four. Although quite a long building the Property was only one room deep and so appeared larger than it actually is.
31. The Tenant and Mrs Barnard referred to a house in the village which they felt was more comparable than those selected by the Landlord's Agent which had

recently gone on the market at an asking rent of £1,650 per calendar month. They said that it had more efficient heating with modern kitchen and bathroom. The kitchen was very large with a dining area, there were two reception rooms, four bedrooms and two bathrooms.

32. They submitted that the Property would achieve a similar rent subject to adjustment for its condition when let and its and relative size.

RENT ASSESSMENT

33. The Tribunal assessed the rent for the Property as at the day of the inspection pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances). The Tribunal took account of the relevant cases and legislation including *Spath Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24th May 1991.
34. The Tribunal is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market taking into account the matters referred to above. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time.
35. The Tribunal took account of the respective parties' rental values of properties which they considered to be comparable. The Tribunal found that the houses in Burford, Quenington, and West Hanney were some distance away from the Property. and may have different markets.
36. The Tribunal found that there was not enough information about the house in Bradwell, Burford to form an opinion as to its comparability. In addition, it was described as modern, unlike the Property.
37. The house in Victoria Road, Quenington let at £1,850 per calendar month appeared to be much larger than the Property being described as spacious with two reception rooms, 3 double bedrooms (one with an ensuite). The house in School Road, West Hanney, Wantage let at £1,800 per calendar month also significantly larger with four bedrooms (two with ensuite) and a large living area. It also had a modern kitchen with integrated appliances.
38. Buckland Road, Bampton let at £1,750 per calendar month appeared a better comparable but unlike the Property was modern and appeared to be larger and, as let, better appointed with four bedrooms, two bathrooms, two reception rooms, kitchen, and double garage.
39. The house let at £1,650.00 described by the Tenant at the hearing was of similar age although described as larger with four bedrooms, two bathrooms and a large modern kitchen/diner.

40. In assessing the rent for the Property, the Tribunal took account of its size, its age, when compared with modern properties which would have the benefit of a damp-proof course and efficient heating systems. It disregarded the Tenant's improvements which included the store room conversion and the fitted cupboards and wardrobes throughout. As let the Property has three bedrooms and one bathroom. The Tribunal took account of the Landlord's improvements in replacing the oil-fired boiler and the tanking of the store room wall.
41. The large garden has a neutral effect on the rent in that some tenants would see it as a benefit while others would consider it a liability.
42. The Tribunal determined that the rent for the Property as a three-bedroom house, in good condition with central heating, double-glazing, modern kitchen and bathroom, and let with carpets and white goods on an Assured Shorthold Tenancy on the same terms would be £1,500.00 per calendar month.
43. The Tribunal found that a deduction of £400.00 should be made to take account of:
- a dated bathroom but for the Tenant's improvements;
 - a dated kitchen;
 - the refurbishment of the Aga;
 - the lack of double or secondary glazing;
 - the need for re-decoration and the replacement by the Tenant of two of the windows;
 - the lack of carpets/floor coverings and white goods which would be provided in comparable properties at that rent.
44. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

SCARCITY

45. 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 properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
46. That experience and consideration leads the Tribunal to the view that there is no substantial scarcity of "... similar dwelling houses in the locality...", in this case Oxfordshire as at the day of the inspection, that are available for letting, and so no deduction is made to reflect this.

TRIBUNAL'S CALCULATIONS

- | | |
|-----------------------|------------------------------|
| 47. Market Rent: | £1,500.00 per calendar month |
| Less global deduction | <u>£ 400.00</u> |

£1,100.00 per calendar month

48. The Tribunal therefore confirms the rent assessed by the Rent Officer.
49. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. The capped Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. The capped rent in this case is £1,176.50 per calendar month, which is more than the Fair Rent assessed by the Rent Officer and the Tribunal and therefore the rent of £1,100.00 per calendar month is to be registered.

FAIR RENT = £1,100.00 per week

Judge JR Morris

Caution: The Tribunal inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

APPENDIX - RIGHTS OF APPEAL

1. If a party wishes to appeal the decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. 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.
4. 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.