



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

Case Reference	:	CAM/26UF/F77/2020/0021
Property	:	148 High Street Codicote Hitchin Hertfordshire SG4 8UB
Applicant	:	Pamela Young (Tenant)
Representative	:	None
Respondent	:	Michael Wager (Landlord)
Representative	:	None
Type of Application	:	S.70 Rent Act 1977 – Determination of a new fair rent
Tribunal Members	:	Mr N. Martindale FRICS
Tribunal	:	First Tier Tribunal (Eastern) HMCTS Cambridge CB1 1BA
Date of Decision	:	15 February 2021

REASONS FOR DECISION

Background

- 1 By an application dated 8 August 2020 the landlord applied to the Rent Officer for registration of a fair rent of £900 per calendar month (pcm) for the Property. The rent payable at the time of the application was £574 pcm registered on 9 October 2018, determined by the Tribunal.
- 2 On 23 September 2020, the Rent Officer registered a fair rent of £622.50 pcm with effect from 9 October 2020. By a letter dated 6 October 2020, received on 8 October 2020 by the Rent Officer and then forwarded to the First Tier Tribunal, the tenant objected to the rent

determined by the Rent Officer and the matter was referred to the First Tier Tribunal Property Chamber for a fresh determination of the rent.

Directions

- 3 Directions dated 10 December 2020 were issued for case progression. The tenant and landlord requested a telephone hearing. There was no provision for an inspection owing to Covid 19 restrictions. The Tribunal received written representations from both parties, including photographs.

Hearing

- 4 The application was decided on the papers received prior and on the oral representations made by the parties at the telephone hearing at 10.30am on 15 February 2021. Owing to the Covid 19 restrictions, there was no hearing in person. The hearing last for approximately one hour.

Inspection

- 5 As there was no inspection the Tribunal referred to a Google 'streetview' image (as at March 2019), as explained to the parties at the hearing. The image shows the front elevation of the Property and its setting in a short terrace. The Property is a mid terrace house built around 1900. It appears to have accommodation on ground and floor levels. The Property appears to be of painted rendered brick and slate tile construction. There was no front garden. The front door opens on to the street. There was no off street parking. The Property is two doors down from a convenience store and from a pedestrian crossing of the High Street. It is a relatively busy location for a residence.
- 6 The Property was described as having 2 bedrooms and a reception room, with a kitchen and bathroom/WC and confirmed by the parties at the hearing.
- 7 The front elevation of the Property (at March 2019) appeared to be in a fair state of repair and decoration.
- 8 The front windows appeared to be of UPVC frames with double glazed units. These were said to have been installed by the landlord. Space heating was assumed to be by means of a gas fired boiler and radiators, also provided by the landlord. This was confirmed by the parties at the hearing.
- 9 It was assumed that the internal fittings to kitchen, bathroom and WC were at least functional and were installed by the landlord. The tenant explained that, at their own expense they had installed a new kitchen in recent years and did not require it further updating by the landlord. They tenant confirmed that they had installed a shower in the bathroom but that the rest of the fittings were those of the landlord.

- 10 According to the Rent Officer's records no white goods, curtains or carpets were provided by the landlord and the kitchen was (assumed) unmodernised for valuation purposes. This was confirmed by the parties at the hearing.
- 11 The tenant provided pictures of damage to the ceiling and front wall. They appeared to result from water entering the roof and top of the front wall and soaking through to the plaster in the room. This was said to be damp still from the water ingress from last year. The tenant sought use of a dehumidifier from the landlord, the latter said that it was not required as it was already dried out. The landlord was to redecorate when access was provided. At the valuation date nonetheless the stains remained. It was unclear whether the fault or former fault was in the roof slating and/or felt and/or the front gutter. It was unclear if it would recur.
- 12 Reference in passing was made by both parties to the issue of a trellis erected in the rear garden by the tenant, but which the landlord no longer had an objection to. There was also reference to another historic problem of overgrown ivy in the rear the garden, which had now been removed. Gutting to a rear outbuilding was said to still be leaking and although the tenant had asked the landlord to repair or replace, this had not been done by them and the tenant had arranged this themselves. The installation of a gate to the rear alley behind the terrace was by another neighbour and was not down to either tenant or landlord to remove. The roof sheeting to the outbuilding was said to be asbestos by the tenant, but said by the landlord, not to be asbestos. None of these issues now appeared to be relevant in the setting of the new fair rent now.

Law

- 11 When determining a fair rent the Committee, 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 emphasized
 - (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).

Decision

- 13 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an unmodernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 14 On the evidence of the comparable lettings and our own general knowledge of market rent levels in Hitchin, we accept that the subject property if modernized and in good order would let on normal Assured Shorthold Tenancy (AST) terms, for £900 pcm. This then, is the appropriate starting point from which to determine the rent of the property as it falls to be valued.
- 15 A normal open market letting would include carpets, curtains and “white goods”, but they are absent here as the tenant has supplied them. On the Rent Officer’s notes the kitchen was in an unmodernized condition, as confirmed above. There also appear to be continuing problems of damp to the ceiling and front wall of the main front bedroom and outstanding damage to the interior. To reflect these factors the Tribunal deducts £135, leaving the adjusted market rent at £765 pcm.
- 16 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply in this area. The Tribunal found that there was no scarcity in the locality of Hitchin and therefore makes no further from the adjusted market rent to reflect this element. The fair rent to be registered would therefore be £765 pcm but, this figure is subject to the statutory Maximum Fair Rent cap.
- 17 The Tribunal is also required to calculate the Maximum Fair Rent cap (MFR). This is determined by a formula under statutory regulation, which whilst allowing for an element of inflation may serve to prevent excessive increases. The capped rent would be £625.50 pcm.

18 As this cap is below the fair rent determined by the Tribunal for the purposes of S.70, **the new fair rent is capped at that figure of £625.50 and is effective from and including the date of determination, 15 February 2021.**

Chairman N Martindale FRICS

Dated 15 February 2021