



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

Case Reference : **CAM/42UG/F77/2020/0018**

**HMCTS code
(paper, video,
audio)** : **P: PAPERREMOTE**

Property : **54 The Street, Alderton, Woodbridge,
Suffolk IP12 3BL**

Tenant : **Mr Michael Emmens
And Mrs Elizabeth Emmens**

Landlord : **Messrs P J and S A Mann**

Date of Objection : **5 November 2020**

Type of Application : **Section 70 Rent Act 1977**

Tribunal : **Tribunal Judge Dutton
Mr D Barnden MRICS**

Date of Consideration : **8 March 2021**

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DECISION

The sum of £680 per calendar month will be registered as the fair rent with effect from 8 March 2021.

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers, which has been not objected to by the parties. The form of remote determination was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on paper. The documents that we were referred to are in a bundle of 34 pages, the contents of which we have noted.

FULL REASONS

1. Background

In an application dated 12 August 2020 the landlord applied to the Rent Officer for a re-registration of the fair rent to £800 per calendar month for the above property.

The rent was previously registered and effective from 11 October 2018.

On 9 October 2020 the Rent Officer registered a fair rent of £675 per calendar month with effect from 11 October 2020. The rent register refers to Mr Emmens only but the application and the previous rent registration referred to both Mr and Mrs Emmens and we have included both in this application.

By a letter received by the Valuation Office on 5 November 2020 Mr Emmens objected to the rent determined by the Rent Officer and the objection was referred to the Tribunal.

2. Inspection

The matter was dealt with during the Covid pandemic and inspection was not undertaken.

The Property is described as a semi-detached house built before 1800 with full central heating with 4 rooms, a kitchen diner, separate toilet and bathroom with toilet. Externally the Property has a garage, car space and garden.

There do not appear to be any improvements by the Tenant, or the landlord since the last registration that we need to consider.

3. Evidence

Neither party requested a hearing. Therefore, this matter was considered on the basis of the papers provided by the parties.

Tenant's Representations:

The tenant complains that there are issues with the water supply, that the Property apparently suffers with Mason Bees and faulty guttering. It is not clear when these problems arose or whether they have been reported to the landlord and in the case of the water issues the relevant Water Authority.

Landlord's Representations:

The Landlord's representation was that Mr and Mrs Emmens have been good tenants for many years and in that improvements have been made to the Property, the latest being the installation of central heating in 2016. The landlord considered that the comparable market rent for the Property was £800 to £900 per month.

4. The law

A summary of the law in respect of this case is attached to this decision.

5. Determination and Valuation

In the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today in the condition that is considered usual for such an open market letting. The Tribunal considered the market in Alderton, from its own general knowledge, rather than any specific knowledge of market rent levels in the area. The Tribunal concluded that an open market rent for three-bedroom houses in the vicinity would be in the region of £800.00 per month, as was the starting rent shown on the Fair Rent Valuation Sheet (FRVS) provided by the Rent Officer.

We need to consider any deduction to reflect the disrepair and condition and the basic level of amenities. There is central heating, and it would seem that the only complaints the tenant raises are as set out in his representations shown above. From the FRVS it would appear that there is a somewhat basic kitchen and reasonable general condition and taking into account the tenants repairing obligations it is suggested that a 15% reduction would fairly reflect the differences between an open market rental and this Property. This seems a reasonable allowance on the information available to us, which results in the reduction in the open market rent of 15%, or £120 which in our finding fairly reflects these issues. This therefore reduces the open market rent to £680.

Next, we need to consider the issue of scarcity. We were not provided with any specific evidence on this. However, the issue of scarcity is considered on the basis of the number of properties available to let and also considering the demand for such properties and over a really large area. Therefore, using our general, rather than any specific knowledge and experience, we consider that in the wide geographical area, being East Anglia, there is no evidence as to scarcity. We note that the Rent Officer made no allowance for this element. Accordingly, on this occasion we make no deduction for scarcity. The full valuation is shown below.

Market Rent	£/month
	800.00
Less	
Carpets, Curtains and White Goods)	
basic kitchen repairing and obligations of the tenant)	<u>120.00</u>
	680.00
Fair rent	£680.00

6. Decision

The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £689.50 per month. The rent determined fell below that figure. The rent of £680 per calendar month is to be registered as the fair rent of this property.

Accordingly, the sum of £680 per calendar month will be registered as the fair rent with effect from 8 March 2021 being the date of the Tribunal's decision.

Tribunal Judge Dutton

Date: 8 March 2021



First-tier Tribunal Property Chamber (Residential Property)

The Law Relating to the Assessment of Fair Rents

INTRODUCTION

1. This is a brief summary of the law applied by the Tribunal (formerly called a Rent Assessment Committee) when reaching its decision. It is an integral part of the decision.

2. The definition of **Fair Rent** is contained in the Rent Act 1977 i.e.:-

70(1) In determininga fair rent under a regulated tenancy of a dwelling house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to:-

- a) the age, character, locality and state of repair of the dwellinghouse
- b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture, and
- c) any premium, or sum in the nature of a premium.....

70(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwellinghouses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwellinghouses in the locality which are available for letting on such terms

70(3) There shall be disregarded:-

- a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his.....
- b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his
- e) **if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any**

deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him or any sub-tenant of his

3. *The Tribunal also has to take into account the Human Rights Act 1998. However, when interpreting the Rent Act 1977 (primary legislation) the Tribunal will have to follow the wording of the Act if it cannot be read or given effect in a way which is compatible with rights contained in the European Convention on Human Rights. Any party dissatisfied will then have to refer the matter to the High Court for the making of a Declaration of Incompatibility.*
4. All other rights granted by the Convention such as the right to a fair and public hearing by an independent tribunal and the right to respect for a person's private and family life are to be observed by the Tribunal
5. There have been a number of cases decided over the years most of which have been either unreported or reported only in professional journals. However in 1997 a Court of Appeal decision was reported as *Curtis v London RAC (No. 2) [1997]4 AER 842* where the Court reviewed the various authorities and provided guidance to Tribunals to assist them in reaching decisions.
6. The Court confirmed that a Tribunal must first find an open market rent for the property taking into account evidence before it from the parties and the Rent Officer. It will not consider other registered rents unless there are very exceptional circumstances which will be set out in the decision if appropriate.
7. A Tribunal can use such factors as comparable rents being paid for similar properties in the locality, capital values and return on expenditure as well as the experience and expertise of its members.
8. Having established an open market rent the Tribunal then has to consider the deductions and allowances referred to above
9. In all cases the Tribunal will try its best to give the parties details of its calculations. The *Curtis* case (above) made it clear that a Tribunal's decision must be supported by some workings out, but precise arithmetical calculations are not possible in all cases. There are many properties where the deductions and allowances are of such proportions that a Tribunal must simply take a view as to how much a rent would have to be reduced in order to obtain a tenant. This may not be the same as the sum total of the Statutory deductions/allowances.
10. If the Tribunal considers that the demand for similar properties in the locality is substantially greater than the supply then a deduction has to be made in accordance with Section 70(2) Rent Act 1977. This is the so-called "scarcity factor". The Tribunal is obliged to look at scarcity in terms of people wanting regulated tenancies. However the reality is that no new regulated tenancies are created nowadays and scarcity is therefore considered using the types of tenancy currently in use.
11. The word "locality" in Section 70(2) has a different meaning to that in Section 70(1). In the case of *Metropolitan Property Holdings Limited v Finegold [1975] 1 WLR 349* it was decided that the "locality" for this purpose should be a really large area. A Tribunal must define the extent of that "locality" when reaching its decision.

12. In determining scarcity, Tribunals can look at local authority and housing association waiting lists but only to the extent that people on such lists are likely to be genuine seekers of the type of private rented accommodation in question if the rent were to exclude the scarcity element.
13. The Tribunal must apply the Rent Acts (Maximum Fair Rent) Order 1999 – known as the “capping” provision – unless there is an exemption.

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this 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.