



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

Case Reference : **CHI/19UD/F77/2021/0024**

Property : **Clematis Cottage
Witchampton
Wimborne
Dorset
BH21 5AR**

Landlord : **Crichel Properties Ltd**

Representative : **Savills (UK) Ltd**

Tenant : **Mrs G Mills**

Representative : **None**

Type of Application : **Rent Act 1977 (“the Act”) Determination
by the First-Tier Tribunal of the fair rent
of a property following an objection to the
rent registered by the Rent Officer.**

Tribunal Members : **Mr I R Perry FRICS
Mr M Ayres FRICS
Mr S Hodges FRICS**

Date of Inspection : **None. Case dealt with on papers**

Date of Decision : **22nd April 2021**

REASONS FOR DECISION

Summary of Decision

On 22nd April 2021 the Tribunal determined a fair rent of £711 per calendar month with effect from 22nd April 2021.

Background

1. On 11th December 2020 the Landlord's Agent applied to the Rent Officer for registration of a fair rent of £660 per month for the above property.
2. The rent was previously registered on the 11th May 2018 at £641.50 per month following a determination by the Rent Officer.
3. The rent was registered by the Rent Officer on the 8th February 2021 at a figure of £707.50 per month with effect from the same date.
4. By a letter dated 24th February 2021 the Tenant objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal Property Chamber (Residential Property) formerly a Rent Assessment Committee.
5. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and of Tribunal hearings in person until further notice.
6. The Tribunal office informed the parties that the Tribunal intended to determine the rent on the basis of written representations subject to the parties requesting an oral hearing. No request was made by the parties for a hearing.
7. The parties were invited to include photographs and video within their representations if they so wished. Representations were made which were copied to both parties and the Tribunal also received some papers from the Valuation Office.
8. The Tribunal office informed the parties that the Tribunal might also consider information about the property available on the internet.

Submissions

9. The property is described within the papers as a detached house probably built in the 1800's with accommodation including a Living Room, Kitchen, Bathroom and WC all at ground floor level with 4 rooms on the first floor. The property has a central-heating system and there is a garden.
10. The property is situated in the village of Witchampton about twelve miles north of Poole. There is no bus service to the village.
11. Mrs Mills had succeeded as the Tenant of the property following the death of her husband. The original tenancy began on 1st February 1984. The tenant provided all of the carpets, curtains and white goods within the property.

12. The Tenant had supplied a number of photographs with her submission and drew the Tribunal's attention to the unpainted walls which had been replastered some months ago following damp penetration and some further evidence of dampness.

The Law

13. 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 other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
14. 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 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).
15. The Tribunal also has 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. 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. 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.

Consideration and Valuation

16. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only, with no oral hearing. Having read and considered the papers it decided that it could do so.
17. 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. 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 area of South Dorset. Having done so it concluded that such a likely market rent for a 4-bedroom detached property would be £1,400 per calendar month.

18. However, the property was not let in a condition considered usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £1,400 per calendar month particularly to reflect the fact that the carpets, curtains and white goods were all provided by the Tenant which would not be the case for an open market assured shorthold tenancy.
19. In addition the Tribunal decided that a deduction should be made to reflect the unpainted walls and the general tired appearance of the accommodation as evidenced by the photographs provided.
20. The Tribunal therefore considered that this required a total deduction of £200 per month made up as follows:

Provision of carpets to 4-bed detached house	£50
Provision of curtains to 4-bed detached house	£25
Provision of white goods normally included in 4-bed detached	£40
Unpainted plasterwork and general tired condition	£85
TOTAL	£200

21. The Tribunal did not consider that there was any substantial scarcity element in the area of South Dorset.

Decision

22. Having made the adjustments indicated above the fair rent initially determined by the Tribunal for the purpose of section 70 of the Rent Act 1977 was accordingly £1,200 per calendar month.
23. The Section 70 Fair Rent determined by the Committee is above the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision Notice and accordingly we determine that the lower sum of £711 per calendar month is registered as the fair rent with effect from 22nd April 2021. This is the maximum rent that the Landlord may charge.

Accordingly, the sum of £711 per month will be registered as the fair rent with effect from the 22nd April 2021 being the date of the Tribunal's decision.

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 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 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.