



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

Case Reference	:	CAM/11UE/F77/2021/0020
Property	:	13 Hedgerley Lane, Beaconsfield, Bucks, HP9 2JP
Applicant	:	Mrs A R Dawes (Tenant)
Representative	:	None
Respondent	:	Hall Barn Trustees Ltd. (Landlord)
Representative	:	None
Type of Application	:	S.70 Rent Act 1977 – Determination of a new fair rent
Tribunal Members	:	Mr N. Martindale FRICS
Date and venue of Meeting	:	14 September 2021 First Tier Tribunal (Eastern) HMCTS Cambridge CB1 1BA
Date of Decision	:	14 September 2021

REASONS FOR DECISION

Background

- 1 By an application dated 5 February 2021 the landlord applied to the Rent Officer for registration of a fair rent of £212 per week for the Property. The rent payable at the time of the application was £205 per week registered on 14 January 2019.
- 2 On 10 June 2021, the Rent Officer registered a fair rent of £228.50 per week with effect from 10 June 2021. By a letter dated 21 June 2021, received on 23 June 2021 by the Rent Officer, the tenant objected to the

new fair rent. The First Tier Tribunal was notified of this objection and a request for a fresh determination of the rent.

Directions

- 3 Directions dated 5 July 2021 were issued for case progression. Neither party requested a hearing. The tenant's written representations dated 21 June to the VOA Rent Officer were forwarded to the Tribunal. No representations were received from the landlord. There was no inspection owing to current Covid 19 restrictions.

Tenant's Representations

- 4 In their reply to the VOA Rent Officer the tenant objected to the new rent as it was almost 10% higher than the current. They had considered the new rent proposed in the landlords notice as reasonable at £7 pw more. The tenant stated that they had been there since 1967 and everything in the house was there's. There had been no electrical equipment and white goods, central heating, carpets and curtains, new kitchen, new bathroom, so the tenant had provided these instead.
- 5 In their reply form to the Tribunal the tenant confirmed that the house had 3 bedrooms, bathroom, WC and 2 living rooms and kitchen all in good condition. There was lean-to outside. There was off-street parking and a garden.

Landlord's Representations

- 6 No representations were received from the landlord by the Tribunal.

Inspection

- 7 Owing to the Covid 19 practice restrictions the Tribunal did not inspect the Property. The Tribunal was however able to externally view the Property from Google Streetview (@ June 2017). The mid-terraced house appears to date from the C19th as part of a short terrace of similar houses. It is an end of terrace. Double pitched and hipped tiled roof with solid brick external walls. There does not appear to be double glazing in windows to the front elevation. Externally the Property appears to be in fair condition.

Law

- 8 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.

- 9 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).
- 10 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 un-modernised 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.
- 11 On the evidence of the comparable lettings and our own general knowledge of market rent levels in Beaconsfield, we accept that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £375 pw. This then, is the appropriate starting point from which to determine the rent of the property as it falls to be valued.
- 12 A normal open market letting would include carpets, curtains and "white goods", but they are absent here. There is in effect only a basic kitchen and bathroom, no central heating, no double glazing, and for all of which allowance has to be made. These deductions total £130 pw, leaving the adjusted market rent at £245 pw.
- 13 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was no scarcity in the locality of Beaconsfield for this type of property and therefore makes no further deduction from the adjusted market rent to reflect this element.
- 14 The fair rent to be registered on this basis alone would be £245 pw., but, the new rent is limited by the statutory Maximum Fair Rent Cap

calculation. This limits any increase to the change in RPI between the date of the last registration of a fair rent and the current, plus 5%. The calculations are shown in the MFR form and this caps the new rent at £230.50 pw. The fair rent from and including the date of determination, is therefore £230.50 per week. The Rent Act makes no allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent.

- 15 The landlord is entitled but, not compelled, to charge the tenants rent at the registered figure from the effective date. However the landlord may not charge more than the registered fair rent.

Chairman N Martindale FRICS

Dated 14 September 2021