

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
RENT ASSESSMENT COMMITTEE

Reference: RAC/0002/06/17

Property: Ffridd Fedw Farmhouse, Talsarnau, Gwynedd, LL47 6UY

Landlord: The Trustees of the Glyn Estate

Tenant: Mr Benjamin Glyn Gittins

Committee: T Lloyd, Chairman
N Martindale FRICS, Surveyor
Eifion Jones, Lay Member

Reasons for the Decision of the Rent Assessment Committee

We were duly convened as a Rent Assessment Committee on the 10th August 2017 under the Provisions of the Rent Act 1977.

The Reference

1. We had before us a reference from the Rent Officer (Wales) in respect of Ffridd Fedw Farmhouse, Talsarnau, Gwynedd (“the Property”). The Tenant objected to the registration of a rent of £3,162 per annum effective from the 24th April 2017.
2. As a result of the Tenant forwarding an email dated the 19th May 2017 to the Welsh Government addressed to Carl Sergeant AM being treated as an objection to the registration, the matter was referred to this Committee.
3. The Trustees of the Glyn Estate (“hereinafter referred to as the Landlord”) made an Application dated the 7th March 2017 for registration of a fair rent of £3,500 per annum.
4. The Rent Officer proceeded to determine the fair rent as £3,162 per annum.
5. By way of an email dated the 13th May 2017 forwarded to the Welsh Government for the attention of Carl Sergeant AM, Mr B G Gittins (“hereinafter referred to as the Tenant”) being treated as an objection to the registration the matter was referred to this Committee and the matter proceeded by way of an oral hearing following a site inspection.

The Inspection

6. The Committee inspected the property on the morning of the 10th August 2017. The inspection took place in the presence of the Tenant and his wife and also Mr Paul and Mr Hanmer of Strutt & Parker LLP agents for the Landlord.
7. The property is a large detached house located along a rough track, up a hill, off a minor county road. The house and garden (weather permitting) enjoy panoramic views of sea, mountain and river estuary to the north and west in particular, but behind the house to the south, the land continues to rise up the hill of rough grazing. The rough track continues through the yard and further up the hillside. It is used as a thoroughfare by the neighbouring farmer for vehicles and animals. There is no allocated parking area with the house, though cars are left in the yard by the tenant. The house has a walled garden to the front and side laid to beds and grass.
8. There are outbuildings with the house which consist of a small detached slate roofed stone store building in the garden to the front, a stone ruin to the far eastern side, a long mono-pitched lean to store to the eastern flank wall and a small section (adjacent but not immediately attached to the house) of a larger stone and slate roof agricultural building to the west. The front elevation of the house faces north toward a terrace of dilapidated and largely unused stone buildings, lower but near to it, further to the west and north.
9. The house is slate roofed and stone walled with many original timber windows, doors and other historic features. It is largely in fair to good condition owing, it appears, to the work of the tenant. The house is heated with a solid fuel back boiler feeding a hot water radiator system to most rooms. The accommodation is largely on two levels, ground and first, but the Committee was informed that there were rough storage loft rooms of low height to the second floor in parts, each being served by a small staircase. The Committee did not see inside these.
10. The main accommodation was served by two separate timber staircases between ground and first floor. Ground floor space is divided into an enclosed entrance porch, basic kitchen forming part of the dining room, and two other large reception rooms. There was also a 'cold room', used by the tenant for storage owing to its poor natural light and inherent damp. First floor space was divided into four large double bedrooms, a small basic bathroom, and a fifth 'corridor' bedroom connecting the rooms.

The Hearing

11. At the hearing consideration was given to both the written representations made by the Tenant dated the 15th March 2017 together with exhibits (addressed to Mr Sion Morgan Rent Officer Wales) and the email dated the 13th May 2017 at 1.09 pm forwarded to the Welsh Government for the attention of Carl Sergeant AM, together with his oral submissions at the hearing.

12. In respect of the Landlord, consideration was given to the written representations contained in the letter dated the 13th June 2017 from Mr Thomas Hanmer and oral evidence given at the hearing by both Mr Hanmer and Mr Paul.
13. As a preliminary point the Committee raised an issue as to the existence of a signed written Tenancy Agreement between Landlord and Tenant. The Tenant in response stated that the unsigned Copy Agreement contained with the Committee's papers had been produced and had been the subject of earlier litigation, but he did not accept that that was the Agreement between himself and the Landlord's Predecessor in Title the Right Honourable Francis David (6th) Baron Harlech. This was despite apparently (although the Committee was not provided with a copy) a Consent Order having been agreed in those proceedings on the 14th April 1998, which dealt with whatever dispute was occurring at the time between the Landlord and Tenant.
14. Nevertheless the Tenant agreed that he had been effectively granted a seven-year initial term tenancy that was renewable and included full repairing obligations.
15. On behalf of the Landlord it was asserted that the unsigned Agreement (as referred to above) was the basis of the letting between the original Landlord and the Tenant and the parties had always understood that this was to be the case and had proceeded upon that basis ever since.
16. The Committee satisfied with that explanation proceeded to hear the evidence.
17. The Tenant was initially given the opportunity to open his case at which date he stated the following:
 - (1) In his view the issue is the rental value of the property in the light of neurotoxin poisoning and this was the sole issue to be established by the Welsh Assembly Government or the Rent Assessment Committee.
 - (2) He stated that the Minister was already aware of the issue and the Local Authority Gwynedd County Council would have to act despite alleged cover-ups in the past. He went on to assert that the Minister was exceeding his powers in the light of the requirements under the Housing Act 2004 and Health & Safety requirements.
 - (3) The Tenant concluded by saying that in his view there was no rental value to Ffridd Fedw Farmhouse due to the neurotoxins.
18. When asked by the Committee as to further detail in relation to the neurotoxin issue, the Tenant confirmed the following:
 - (1) The Licensee/Tenant of the surrounding land and part of the outbuildings brought a 45 gallon drum of sheep dip to the property in 1987.

- (2) It was stored in the building adjacent to the house and was spilt over and leaked into the property.
19. When asked what actions were taken at the time the Tenant stated that:
 - (1) A Mr Dafydd Hughes from Gwynedd County Council's Environmental Health Department attended the site and a direction was made for the drum to be removed.
 - (2) As such the drum was removed.
20. Apparently no further action was taken after the drum was moved. The Tenant however alleged that bringing the drum onto the property in 1987 and spilling the content was done purposefully and maliciously by the Licensee/Tenant of the agricultural land and in collaboration with the then Landlord and/or his then Agents
21. The Tenant then went on to state that although the contamination was some 30 years ago, it was "*still there now and everywhere*". When asked by the Committee as to the evidence of that fact he stated that his daughter had almost died as a consequence.
22. The Tenant also stated when asked that he had "*No disclosable independent reports*".
23. The Tenant was also asked if he had any medical evidence to substantiate the allegation of, in his words "neurotoxin poisoning" to which he stated he did not.
24. The Tenant also commented on the fact that due to the extent of the demise being essentially the house itself, and the use of one small detached stone and slate building and one other section of a building in a range although attached to the house not being immediately adjacent and garden, farm animals were allowed to wander through the yard and up to the back door. This on occasion had caused damage including damage to vehicles.
25. On behalf of the Landlord, both Mr Paul and Mr Hanmer made submissions. Mr Paul stated that having had an opportunity to view the property that morning for the first time, it reaffirmed the Landlord's position that the open market rental valuation (before adjustments) should properly be £8,400 and relied upon the comparables set out in the letter dated 13th June 2017. In relation to the issue of scarcity he submitted that it could be argued there was no scarcity at all and therefore no deduction, but in reality he conceded there should be a 10% or so deduction.
26. He disputed any deduction in relation to age and character suggesting that the comparables as set out were properties of a similar character etc.

27. He also disputed the deduction made by the Rent Officer for furniture as all the properties were let unfurnished. He similarly objected to any reduction due to repair and condition.
28. Mr Hanmer gave more detailed evidence as regards to the comparables. When questioned by the Committee it became clear from the answers that the comparables as set out in the letter of 13th June 2017 all related to properties that had been fully and quite recently renovated. Furthermore, it was only one of the properties being Glyn Cottage which had a shared trackway/driveway through agricultural land owned/let to another.
29. In relation to the issue of neurotoxins, Mr Paul submitted that he had never heard of an eventuality of intentional tipping of chemicals and certainly not in any event by a Landlord upon his own property, there was no evidence to support the Tenant's contention and in addition it was not an activity that his firm and/or in his view the Landlord would condone. It was, however, clear bearing in mind Strutt & Parker LLP had only been Managing Agents since the 1st February 2016 that he was not able to provide much assistance to the Committee as to what had or had not occurred historically.
30. The Committee also asked both Landlord and Tenant if the issue of the contamination was known generally in the area by other local residents, ie did the property have that reputation, to which both representatives for the Landlord and the Tenant said that they were not aware of that fact.
31. The parties were then given an opportunity to close their case. Mr Paul for Strutt & Parker essentially summarised his earlier submission. The Tenant similarly summarised briefly points raised earlier. In addition the Tenant's wife Mrs Gittins gave evidence to the effect that after the spillage of the chemical the then Agent for the Estate a Mr Flynn attended the property and confirmed that he could smell the chemical. Mrs Gittins also confirmed that she cleaned it up and suffered from flu like symptoms afterwards. She also touched on numerous incidents and made allegations in relation to the behaviour of the Licensee/Tenant of the agricultural land. Clearly these matters are out with the ambit of this Committee's decision and accordingly were not considered any further.

The Decision

32. Having heard all the evidence we reached our decision based upon our inspection of the property, the information before the Committee including the Rent Officer's working papers, a copy of the Rent Register, the Application dated the 6th March 2017, the unsigned Tenancy Agreement, the Tenant's correspondence to both the Rent Officer and Welsh Government and the correspondence from Messrs Strutt & Parker on behalf of the Landlord.
33. The Committee is also required to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 ("the Maximum Fair Rent Order"), which places a cap on the permissible amount of increase of fair rent between one registration and

subsequent registrations. The cap is based upon the amount of increase in the Retail Price Index between the dates of the respective registrations.

34. The starting point of assessing a fair rent is to establish the market rent of the property. Thereafter a number of adjustments are made to reflect the requirements of Section 70 of the Rent Act 1977.
35. As referred to above the Tenant's case was that the property had a nil rental value due to the alleged neurotoxin poisoning. The Rent Officer provided a list of some 21 properties. It was noted however that none of which were in very close proximity to the property. For the Landlord, Strutt & Parker provided comparables by way of the letter dated the 13th June 2017. As referred to in paragraph 28 above, Mr Hanmer was questioned by the Committee in respect of the detail in relation to those properties. It was apparent as a consequence that unlike the property under consideration, those comparables related to newly refurbished properties with only one having a shared right of way. The Committee, mindful of all submissions and the evidence presented including comparables and also utilising its own experience and expertise and having regard to all the requirements of Section 70 of the Rent Act 1977 consider that:
 - (1) There is no evidence before it save as for the oral submissions of the Tenant as to the circumstances of any chemical spillage some 30 years ago;
 - (2) Furthermore, there is no evidence before the Committee that even if, which is not a matter this Committee is to determine had there been a chemical spillage 30 years ago that the effects of the same are continuing;
 - (3) The Committee is considering matters as from the last registration in 2008 and the allegation of chemical spillage considerably pre-dates the last rental registration and;
 - (4) There is no evidence to suggest that the Property is known locally to have a reputation of having been contaminated by way of chemical spillage.
36. Bearing the above in mind the Committee do not accept the Tenants' submissions that the property has a nil rental value.
37. Accordingly and having regard to all the circumstances and all the requirements of Section 70 of the Rent Act 1977, the Committee considers the market rent for the property is £3,774 per annum.
38. As regards scarcity, we do not accept the submissions on behalf of the Landlord that there should be no deduction and/or as a concession which would be limited to 10%. We agree with the Rent Officer's deduction that the appropriate figure should be 15% which in addition accords with other Committee decisions.

Calculation in Respect of the Decision

39. Applying the above findings and conclusions we determine the fair rent as follows:

Market rent (per annum)	£7,400
Less adjustments:	
Disrepair	
Basic Kitchen	
Basic Single Bathroom	
Basic Electrics	
Shared Trackway	
Total 40%	£2,960
<u>Adjusted Market Rent</u>	<u>£4,440</u>
Deduction for scarcity at 15%	£666
Fair Rent (Adjusted to nearest 50p)	<u>£3,774 per annum</u>

40. The Tenancy is subject to the Rent Act (Maximum Fair Rents) Order 1999. The maximum fair rent under this Order is capped at £3,486. Our calculation is set out in the attached Schedule.
41. Accordingly as the Order applies we record the fair rent for the Property is £3,486 per annum.
42. For the purposes of the Rent Act 1977 (as amended) it is recorded that the decision was made on the 10th August 2017.

Dated this 4th day of September 2017



Chairman

CALCULATION OF MAXIMUM FAIR RENTS

Ref No: RAC/0002/06/17

Address: Fridd Fedw Farmhouse, Talsarnau

RPT figures are:-

a) Present RPI (Published June 2017)	<u>272.3</u>
b) RPI for month of last registration	<u>212.1</u>

CALCULATION

Present RPI	(a) <u>272.3</u>
Less RPI at last registration	(b) <u>212.1</u>
	(c) <u><u>60.2</u></u>

Divide result by RPI at last registration i.e. (c) by (b)

(c)	<u>60.2</u> equals	<u>0.2838</u>
(b)	212.1	

(see note) Add 0/075 or 0/05 0.05

Add 1 1.00
1.3338

Multiply by last registered rent net
 Of variable services

Last registered rent	£2,613.50	
Less variable services	£ 0.00	<u>£ 3485.89</u>

Round up to nearest 50p
 Add variable services fixed by committee £ 3486.00 w/cm/pa
£ 3486.00

MAXIMUM FAIR RENT £3,486.00 Per annum
 (the committee assessed a fair rent of £3,774 per annum)

NOTE – if this is NOT the first application for registration after 1st February 1999 add 0/05.
 Add 0.075 if first registration after the limit was introduced.