

**TRIBIWNLYS EIDDO PRESWYL**  
**RESIDENTIAL PROPEY TRIBUNAL**  
**RENT ASSESSMENT COMMITTEE**  
**(RENT ACT 1977)**

Reference: RAC/0015/08/22

Property: Lothlorien, Southgate, Swansea, SA3 2AT

Tenants: Ms A Gerke **Applicant**

Landlords: Mr Alex Jones and Ms Michelle Viney **Respondents**

Committee: Kelly Byrne, Legal Chair  
Roger Baynham, Surveyor Member

**DECISION OF THE RENT ASSESSMENT COMMITTEE**

**A fair rent of £70.00 per week was determined by the Committee on 24<sup>th</sup> November 2022 with effect from the same date.**

**REASONS FOR THE DECISION OF THE RENT ASSESSMENT COMMITTEE**

**Background**

1. This matter concerns a reference from the Rent Officers Wales in respect of Lothlorien, Southgate, Swansea, SA3 2AT (“the Property”). The Tenant, Ms A Gerke (the “Applicant”) had appealed a rent of £70.00 per week which had been determined by Rent Officers Wales on 21<sup>st</sup> April 2022. The previous rent, registered on 30<sup>th</sup> August 2012, had been £58.00 per week and the rent that had been proposed by the Landlord was £100.00 per week.
2. The Applicant has rented the property since 1<sup>st</sup> April 1988.
3. On 25<sup>th</sup> May 2022 the Applicant lodged an appeal to Rent Officers Wales in relation to the new registered rent of £70.00 per week and the Rent Officers Wales referred the matter to this Committee for determination.

## Inspection

4. An inspection was carried out at the property by the Committee members on 18<sup>th</sup> November 2022. Mr Alex Jones (“the Respondent”) was initially in attendance at the property but the Applicant explained that she was not happy for him to enter the property. The Respondent advised that he was content for the site inspection to continue in his absence; he was advised that no representations would be heard by the Committee and that the inspection was to assist in determining the fair rent.
5. The property comprises a detached two storey house which is several hundred years of age. The house has solid stone exterior walls which have been lime washed, a slate roof and single glazed wooden window frames.
6. The accommodation throughout is relatively small with limited headroom having exposed wooden beams. On the ground floor there is an enclosed entrance porch with a door to the side leading to a w / c, a living room with a wood burning fire (provided by the tenant), and a kitchen with a sink unit and an Aga cooker range (again installed by the tenant).
7. There is a narrow and steep staircase leading to the first floor which consists of two rooms. The first room, which could be used as an occasional bedroom, also contains the bath, and there is a door leading directly from this room to a double bedroom.
8. The property is connected to mains electricity and mains water but there is no mains gas supply in this area, and the drainage is to a cess pit. There is no car parking within the curtilage of the property.
9. The front garden is of reasonable size and enclosed by a stone wall whereas the large rear garden, which is partly overgrown, has a vegetable area.
10. The interior of the house has been maintained to an acceptable standard by the tenant who also, over the years, has lime washed the exterior stone walls. It does, however, lack basic amenities such as central heating, double glazing, a bathroom, and a modernised kitchen.
11. Lothlorien Cottage is located in an attractive, but very remote rural location and is approached by a private no through road which is approximately 1.5 miles in length. It is unclear who owns this road but it is in very poor condition with numerous deep pot holes and overhanging hedges. The property is a considerable distance from the nearest shop and other facilities.

## Representations

12. Before the Committee was the following documentation: -

Applicant’s Documentation

- a. Residential Property Tribunal – Rent Assessment Committee form dated 15<sup>th</sup> August 2022
- b. Written representations from the Applicant dated 16<sup>th</sup> August 2022.
- c. Written representation from the Applicant dated 21<sup>st</sup> August 2022.

Respondent’s Documentation

- a. Letter dated 29<sup>th</sup> July 2022 from Rent Officers Wales containing the notification of appeal and fair rents calculations

13. Neither party submitted market rent comparables, nor any evidence of market rent levels.

**The Law**

14. Section 70 of the Rent Act 1977 states: -

**Determination of fair rent.**

*(1)In determining, for the purposes of this Part of this Act, what rent is or would be a 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 dwelling-house,*

*(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, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.*

*(2)For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses 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 dwelling-houses in the locality which are available for letting on such terms.*

*(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 to comply with any terms thereof;*

*(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;*

*(c)(d). . . . .*

*(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.

*[(3A)In any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, regard shall also be had to the amount of council tax which, as at the date on which the application to the rent officer was made, was set by the billing authority—*

*(a)for the financial year in which that application was made, and*

*(b)for the category of dwellings within which the relevant hereditament fell on that date,*

*but any discount or other reduction affecting the amount of council tax payable shall be disregarded.*

*(3B)In subsection (3A) above—*

*(a)“hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,*

*(b)“billing authority” has the same meaning as in that Part of that Act, and*

*(c)“category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.]*

*(4)In this section “improvement” includes the replacement of any fixture or fitting.*

*(4A)In this section “premium” has the same meaning as in Part IX of this Act, and “sum in the nature of a premium” means—*

*(a)any such loan as is mentioned in section 119 or 120 of this Act,*

*(b)any such excess over the reasonable price of furniture as is mentioned in section 123 of this Act, and*

*(c)any such advance payment of rent as is mentioned in section 126 of this Act*

15. 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 that Section 70 of the Act means:

15.1 that ordinarily a fair rent is the market rent for the subject property discounted for “scarcity”; and

15.2 that for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables (although these rents may

need to be adjusted to reflect any relevant differences between these comparables and the subject property (e.g. furnished and unfurnished).

16. Accordingly, once the market rent for the Property has been determined pursuant to Section 70 of the Act, that rent must then be adjusted, where necessary, for any differences between the relevant comparables and scarcity.
17. 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 a subsequent registration. The cap is based upon the amount of increase in the Retail Prices Index between the dates of the respective registrations.
18. By virtue of Section 72 of the Act, the registration of the rent takes effect from the date upon which the Committee reached its decision. In this case, that date 24<sup>th</sup> November 2022. The Committee is unable to backdate a new registered rent by virtue of this provision.

#### **Committee's Assessment of the Rent**

19. The starting point in assessing a rent under Section 70 of the Act is to establish the market rent for the Property. To that market rent, a number of adjustments are made in order to reflect the requirements of Section 70 of the Act. As stated at paragraph 14 above, the Committee is restrained from considering the personal circumstances of the parties by law. This includes any expectations a landlord may have as to a gross return on its investment.
20. As stated above, neither the Landlord nor the Tenant provided evidence as to rent of other similar properties in the locality.
21. The Committee, having made its own enquiries, utilising its own experience and expertise and having regard to all the requirements of Section 70 of the Act, find that the market rent for the Property before the relevant deductions (as outlined below) is £126.92 per week.
22. From this the Committee has deducted a total of £45.00 to reflect the facilities, furnishing, condition and location of the Property (Please see breakdown in Paragraph 24).

23. As regards to scarcity, the Rent Officer made a deduction of 20% for scarcity, the Committee disagree with this percentage and have made the decision to deduct 15% for scarcity.

### Calculations

24. Applying the Committee's findings and conclusions, the Committee has determined the rent as follows:

Market Rent ( <b>per week</b> )	£126.92
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Less adjustments

Lack of Central Heating	- £10.00
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Carpets/Curtains	- £5.00
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Basic Kitchen/ Bathroom	- £15.00
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Condition	- £5.00
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Double Glazing	- £5.00
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Other - Access	- £5.00
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**Total deductions - £45.00**

Adjusted Market Rent	£81.92
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Deduction for scarcity at 15%	-£12.28
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Total	£69.63
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<b>Fair Rent (adjusted to nearest 50p)</b>	<b>£70.00</b>
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25. The rent is subject to the capping provisions of the Maximum Fair Rent Order. The maximum fair rent under this order is capped at £88.00 per week.

26. Accordingly, as the Order does not apply, we record that the fair rent for the Property is £70.00 per week.

27. For the purposes of Section 72 of the Act (as amended) the decision was made on 24<sup>th</sup> November 2022.

Dated this 10<sup>th</sup> day of January 2023

K Byrne  
Tribunal Judge