



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

**Case Reference** : **CAM/00MB/F77/2018/0031**

**Property** : **6 Leonard Court, James Butcher Drive,  
Theale, Berkshire RG7 5HB**

**Applicant (Landlord)** : **Southern Housing Group**

**Respondent (Tenant)** : **Mrs E Miller**

**Type of Application** : **Determination of a fair rent under section  
70 of the Rent Act 1977**

**Tribunal Members** : **Judge JR Morris  
Mrs M Wilcox BSc MRICS  
Mrs M Hardman IRRV(Hons) FRICS**

**Date of Decision** : **17<sup>th</sup> January 2019**

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**DECISION**

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**DECISION**

1. The Fair Rent for the Property is determined to be £142.00 including a rental element of £124.13 and a variable service charge of £17.87 per week.

**SUMMARY REASONS**

**THE PROPERTY**

2. The Property is a first-floor self-contained purpose built flat in a development of similar flats in several similar Blocks. The Block in which the Property is situated is a three-storey building of brick under a tile roof constructed circa 1980 in communal grounds with allocated parking. Access to the Block is via a door entry system to a common hall and stairway. There are communal facilities in a nearby block on the development that include a common room and kitchen, laundry room and guest room.

### Accommodation

The Property comprises a hall, a sitting room, a kitchen, a bedroom and a bathroom.

### Services

Space heating is by a central heating system that is served by a common boiler. Water heating is by an electric tank in the bathroom. The Block has mains electricity, water and drainage.

### Furnishing

The Property is let unfurnished.

### Location

The development is situated on the outskirts of Theale off Bath Road near Junction 12 of the M4.

## **THE TENANCY**

3. The Tenancy is a regulated weekly tenancy under the Rent Act 1977. As a tenancy, not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs.

## **THE REFERRAL**

4. A rent of £142.00 per week including £25.43 variable service charge was registered on 26<sup>th</sup> November 2014 and effective from that date. The Landlord by a notice in the prescribed form received on 6<sup>th</sup> September 2018 proposed a new rent of £464.12 (including £77.48 variable service charge) per calendar month which equates to £107.10 (including £17.87 variable service charge) per week. On the 18<sup>th</sup> October 2018 the Rent Officer registered a rent effective from that date of £131.00 (including £17.87 variable service charge) per week, which was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. On 26<sup>th</sup> October 2018 the Landlord objected to the rent assessed by the Rent Officer and the matter was referred to the Tribunal. The referral was by written representations.

## **THE INSPECTION**

5. The Tribunal inspected the Block.
6. Externally the Block and communal grounds are in fair condition. The grounds are laid mostly to lawn with trees around the boundary and are satisfactorily maintained. The parking bays were marked and generally clear of litter. The Blocks were fitted with upvc double glazed windows.
7. Internally the communal areas of the Block were clean and generally well maintained.
8. The Tribunal inspected the Property in the presence of the Tenant. The Property has a fitted kitchen and bathroom which are basic but serviceable. The shower over the bath was installed by the Tenant. There is a large storage

cupboard in the living room. Floor coverings, curtains and white goods are the Tenant's.

## **THE LAW**

9. The Law relating to these reasons is contained in section 70 Rent Act 1977.

## **REPRESENTATIONS**

10. The Landlord provided a schedule of services, which are variable.
11. The Landlord stated that it was referring the rent registered by the Rent Officer to the Tribunal because it was £113.13 (excluding the variable service charge) which is lower than the previous rent of £116.57 (excluding the variable service charge).
12. The Tenant made no representations.

## **ASSESSMENT OF A FAIR RENT**

13. The Tribunal assessed the rent for the Property as at the day of the inspection pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances). The Tribunal took account of the relevant cases and legislation including *Spath Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24<sup>th</sup> May 1991.
14. The Tribunal are required under the legislation and case law to assess a market rent for the Property taking into account the matters referred to above. Arguably, the only difference between this type of tenancy and those under the Housing Act 1988 is that the Tribunal must consider whether or not a deduction for scarcity should be made, which varies from time to time depending on the market within a locality.
15. Neither party submitted rental evidence of comparable properties. Therefore, the Tribunal used the knowledge and experience of its members. The Tribunal determined that a market rent for the Property, taking into account its location, in good condition with central heating, modern kitchen and bathroom, and let with carpets, curtains and white goods on an Assured Shorthold Tenancy would be £167.00 per week (which equates to £725.00 per calendar month). In making its determination the Tribunal took into account the extent of the services provided which included the cost of space heating for the Property.
16. The Property was let without floor coverings and white goods and the kitchen and bathroom were basic. The Tribunal found that flats on the open market at the above rent would be let with floor coverings, some white goods and the bathroom would be fitted with a shower (which here was a tenant's improvement). The Tribunal therefore made a deduction of £25.00 per week

for the lack of these items. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

## **SCARCITY**

17. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the Property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
18. That experience and consideration leads the Tribunal to the view that although demand is high it is generally met by supply in this locality. It was decided that there is no substantial scarcity at the time of the determination of "... similar dwelling houses in the locality...", in this case in Berkshire, that are available for letting and therefore no deduction is made to reflect this.

## **TRIBUNAL'S CALCULATIONS**

- |     |                            |                  |
|-----|----------------------------|------------------|
| 14. | Uncapped Open Market Rent: | £167.00 per week |
|     | Less global deduction      | <u>£25.00</u>    |
|     | Uncapped Fair Rent         | £142.00 per week |

Comprising:

Rent element	£124.13
Variable Service Charge	<u>£17.87</u>
	£142.00

15. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. The capped rent is £153.37 comprising a rental element of £137.13 and a variable service charge of £17.87 per week, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the Tribunal is to be registered.

**FAIR RENT = £142.00 including a rental element of £124.13 and a variable service charge of £17.87 per week**

## **Judge JR Morris**

**Caution:** The Tribunal inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

## **APPENDIX - RIGHTS OF APPEAL**

1. If a party wishes to appeal the 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.