



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

Case Reference : **CAM/34UH/F77/2018/0034**

Property : **19 Owen Close, Wellingborough,
Northamptonshire NN8 3LW**

Applicant (Landlord) : **Places for People**

Respondent (Tenant) : **Miss JS Bewley**

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

Tribunal Members : **Judge JR Morris
Mrs Wilcox BSc MRICS**

Date of Decision : **18th January 2019**

DECISION

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DECISION

1. The Fair Rent for the Property payable from the 18th January 2019 is determined to be £100.00 (including £4.26 attributed to services) per week which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999.

REASONS

THE PROPERTY

2. The Property is a two storey mid-terraced house of brick with a concrete tile roof. The windows and doors and rainwater goods are upvc. There is a timber fascia and store to the front,

Accommodation

The Property comprises on the ground floor a hallway off which is a cloakroom with w.c. and wash hand basin, a kitchen/diner to the front and a lounge to the rear with a door to the back garden. On the first floor there are three bedrooms and a bathroom. There are gardens to front and rear.

Services

The Property has mains electricity, gas, water and drainage. Space and water heating are by a gas central heating system.

Furnishing

The Property is let unfurnished.

Location

The Property is situated in a residential area on the outskirts of Wellingborough.

THE TENANCY

3. The Tenancy is a statutory regulated weekly tenancy, which commenced on 2nd June 1986. Being a tenancy for 7 years or less, section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations. The Tenant is responsible for internal decoration.

THE REFERRAL

4. The current rent is £94.00 (including £3.97 attributed to services) per week registered on the 13th October 2016 and effective from 15th December 2016. The Landlord by a notice in the prescribed form received by the Valuation Office Agency on the 1st October 2018 proposed a new rent of £95.95 (including £4.26 attributed to services) per week. On the 25th October 2018 the Rent Officer registered a rent of £100.00 (including £4.26 attributed to services) per week effective from 15th December 2018. The registered rent was not a capped rent under the Rent Acts (Maximum Fair Rent) Order 1999 as the capped rent was higher than that set by the Rent Officer. On 8th November 2018 the Tenant referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.

THE INSPECTION

5. The Tribunal inspected the Property in the presence of the Tenant's partner. The Property is situated on an estate of similar properties. There is non-allocated parking available on the estate. There is no parking on the Property. Garages in nearby garage blocks are available to rent under a separate agreement.
6. The Estate is in fair condition although the fencing around the recreation ground and play area is in need of re-painting and the boarded up under crofts are unattractive even if necessary.
7. Externally the Property is in fair to good condition. The rear garden was fenced but there was no rear access. The Tenants had repaired the boundary fence.
8. Internally the Property is in good condition. The Tenant has removed some of the cupboards and re-plastered the walls, which has made the Property more attractive. As let both kitchen and bathroom would be basic and dated but for

the Tenant's improvements. The Tenant has re-fitted the kitchen with new unit doors and integrated appliances. The Tenant has also fitted a shower in the bathroom and a new w.c. in the downstairs cloakroom. In addition, the Tenant has fitted new internal doors. The Tenant has also replaced the ranch style stair bannister with spindle type banister on the grounds of safety. Initially the Landlord installed partial central heating to which the Tenant added radiators. The Landlord has now up graded the whole system and there is a new gas combination boiler. The Tenant has laid insulation in the roof. The floorcoverings, curtains and white goods are not provided by the Landlord.

THE LAW

9. The law applicable to this application is contained in the Rent Act 1977.

REPRESENTATIONS

10. The Tenant stated that she considered the increase of £7.95, from £88.00 a week (as charged by the Landlord) to £95.95, unfair. She particularly objected to the charge attributed to services because she said that the frequency of litter picking, grass cutting and similar landscape services had been greatly reduced in recent years. She believed that the Landlord was focusing its spending on the new housing projects it had in Milton Keynes rather than the existing houses it held.
11. She said that her partner and she had spent time and money on maintaining and improving the house. It was acknowledged that the Landlord has put in new doors and windows.
12. The Landlord provided a schedule of services relating to grounds maintenance, landscaping improvements and tree works, communal lighting and play equipment. 187 properties contributed to a cost of about £34,000 for 2017 to 2018, for which a fixed service charge was levied of £4.26.

RENT ASSESSMENT

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* 24th May 1991.
14. The Tribunal is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market taking into account the matters referred to above including any services. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time.

15. With regard to the amount attributed to services to which the Tenant raised particular objection, this is a fixed service charge. It is assessed as part of the rent and does not vary according to the actual cost of the services. There are no provisions to assess the reasonableness of fixed service charges separately. A landlord may not charge more than the Fair Rent but may attribute however much it considers appropriate to the service charge element of the total rent. This is an internal management decision.
16. Neither party provided rental values of comparable properties, therefore the Tribunal used the knowledge and experience of its members. The Tribunal determined that the rent for the Property, taking into account the location, in good condition with central heating, double-glazing, modern kitchen and bathroom, and let with carpets, curtains and white goods on an Assured Shorthold Tenancy on the same terms at the time of inspection would be £150.00 per week. However, the Tribunal made a global deduction of £45.00 per week to take account of:
- The Tenant’s improvements including the removal of some cupboards and re-plastering, the renewal of the internal doors;
 - The basic kitchen but for the Tenant’s improvements;
 - The basic and dated bathroom and cloakroom but for the Tenant’s improvements;
 - The lack of carpets, curtains and white goods;
 - The repairs to the fence.
- 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.
17. The Tribunal noted that the rent included £4.26 attributed to services relating to landscaping and play equipment.

SCARCITY

18. 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 subject 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.
19. That experience and consideration leads the Tribunal to the view that there is no substantial scarcity of “... similar dwelling houses in the locality...”, in this case Northamptonshire as at the day of the inspection, that are available for letting, and so no deduction is made to reflect this.

TRIBUNAL’S CALCULATIONS

20. Market Rent:	£150.00 per week
Less global deduction	<u>£ 45.00</u>
	£105.00

As the uncapped Fair Rent of £105.00 (including £4.26 attributed to services) per week assessed by the Tribunal is only £5 more than that assessed by the Rent Officer, the Tribunal confirms the Rent Officer's assessment.

21. 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 Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. The capped rent in this case is £107.00 (including £4.26 attributed to services) per week, which is more than the Fair Rent assessed by the Rent Officer which is confirmed by the Tribunal and therefore the rent of £100.00 per week assessed by the Rent Officer and confirmed by Tribunal is to be registered.
22. It should be noted that this is the maximum rent that may be charged. A registered social landlord may charge a lesser amount as a landlord can take factors into account which neither the Rent Officer nor the Tribunal can under the legislation.

FAIR RENT = £100.00 (including £4.26 attributed to services) 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.