



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

**Case Reference** : **BIR/44UF/F77/2019/0001**

**Property** : **27 Bridge St., Kenilworth, Warwickshire, CV8 1BP**

**Applicant** : **Ravenfayre Limited**

**Representative** : **Mrs A.Fox, Director of Ravenfayre**

**Respondents** : **Mr & Mrs R.Habbits**

**Type of Application** : **Appeal against the Rent Officer's Decision of Fair**  
**Rent under** : **the s.70 Rent Act 1977**

**Tribunal Members** : **Mr I.D. Humphries B.Sc.(Est.Man.) FRICS**  
**Mrs K. Bentley**

**Date and Venue of** : **11 February 2019 at the Property**  
**Hearing**

**Date of Decision** : **11 February 2019**

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**DECISION**

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- 1 The Fair Rent is determined at £115.00 (One Hundred and Fifteen Pounds) per week from 11 February 2019.

## REASONS

### Introduction

- 2 Mr and Mrs Habbits hold a protected tenancy of 27 Bridge Street, Kenilworth, Warks., CV8 1BP that they have leased since 1973. The rent had previously been registered by the Rent Officer at £102.00 per week on 25 January 2017 to take effect from the same date. On 6 November 2018 the landlord applied for an increase to £136.60 per week and on 23 November 2018 the Rent Officer registered a new rent of £108.00 per week to take effect on 25 January 2019.
- 3 The landlord appealed against the Decision by email to the Valuation Office Agency on 20 December 2018 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 11 February 2019 and the Decision papers were sent to the parties with a copy of the Maximum Fair Rent calculation. On 18 February 2019 the Tribunal received an email from the landlord requesting reasons for the Decision which are the subject of this document.

### The Law

- 4 Mr and Mrs Habbits are protected tenants as acknowledged by the landlord. We have not been provided with a copy of the tenancy agreement but understand the property had been let unfurnished with the landlord responsible for repairs to the structure and exterior with the tenant responsible for internal decoration in accordance with s.11 of the Landlord & Tenant Act 1985.
- 5 Accordingly, the rent falls to be determined in accordance with s.70 of the Rent Act 1977.
- 6 S.70(1) states that in determining a fair rent, regard has to be had to all the circumstances of the tenancy (other than personal circumstances) including the age, character, locality and state of repair of the house, whether the property is let furnished and whether a premium had been paid or would be required to renew, continue or assign the tenancy.
- 7 s.70(2) adds a further qualification that it is assumed that the number of parties seeking to become tenants of similar houses in the locality on the terms of the tenancy (other than the rent) is not substantially greater than the number of houses available to let on such terms. This is usually referred to as 'scarcity' and the Court of Appeal held in *Spath Holme Ltd. v Chairman of the Greater Manchester Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 that under normal circumstances the fair rent would be the market rent discounted for scarcity. The Court also held that assured tenancy rents could be considered comparable to market rents.
- 8 s.70(3) requires the valuation to disregard any disrepair due to a tenant's failure to comply with the terms of the tenancy and any improvements carried out by either the tenants or their predecessor in title.

## **Facts Found**

- 9 The Tribunal inspected the property on 11 February 2019. It is located in a popular residential area of Kenilworth opposite Abbey Fields, within half a mile of the town centre.

The property comprises a two bedroom 1960s house built at right angles to houses on the road frontage and is effectively a rear wing, attached to the main block and could therefore be described as end-terraced.

It is in good external condition although some of the roof tiles are starting to shale and need replacement. The internal condition is excellent.

- 10 The accommodation comprises a hall, living room and kitchen on the ground floor with two bedrooms and a bathroom on the first floor. It has central heating and double glazing. There is a small garden with a lawn and path and a detached single garage included in the tenancy.
- 11 Mr and Mrs Habbits have carried out extensive improvements including refitting the kitchen and bathroom, fitting built-in wardrobes, replacing flooring, fitting a new gas fire in the lounge, building a shed and fitting an electrically powered garage door.

## **Submissions**

- 12 The landlord requested a Hearing which was arranged for 12.00 pm on the day of inspection in Coventry Magistrates Court but as the tenants would have been unable to attend, and by agreement with the parties, was heard in the living room of the property at which each party was invited to present their case.
- 13 Mrs Fox for the landlord submitted a written submission and also presented her case orally. The submission referred to several properties to let in Kenilworth and Coventry including terraced and semi-detached houses, flats and maisonettes, all with two bedrooms where the weekly asking rents ranged from £150 to £213. Photographs of the comparables were attached.

At the Hearing, Mrs Fox submitted:

- 1 that in her view a Fair Rent should help 'tenants in need';
- 2 that she could not afford to lose £40 per week;
- 3 she accepted that the property was let unfurnished with no white goods included;
- 4 she was concerned about the Rent Officer's base figure used in his assessment;
- 5 she submitted that the tenants' improvements were of no benefit to the landlord;
- 6 she did not consider scarcity relevant;
- 7 the house needed 'a new roof' which required a substantial rent increase to cover the cost and
- 8 she said a fair rent had to be fair to both parties.

In her submission, Mrs Fox said that having considered the asking rents of other houses to let, in her opinion the market rent of the subject house would be £190.00 per week without the garage or £207.00 per week with the garage included.

- 14 Mr and Mrs Habbits did not make any submissions but drew attention to the improvements they had carried out, preferring to leave rent assessment to the Tribunal.
- 15 Both parties were at pains to say that there was no animosity between them and they were on good terms, the dispute related purely to the rent.

## Decision

- 16 To assess the Fair Rent the Tribunal need to assess the rental value of the house in good condition as a starting point, assuming it had been well maintained and modernised with central heating, reasonable kitchen units and a bathroom suite in fair condition, fully equipped with carpets and curtains and ready to let in the open market.
- 17 Based on the evidence supplied by Mrs Fox and the Tribunal's own general knowledge and experience, the Tribunal assessed the market rent of the property comprising the house and garage, in good condition, at £200.00 per week.
- 18 However, it had not been let in that condition. The Tribunal deducted for the value of the tenants' improvements at £5.00 per week for the kitchen refurbishment, £4.00 per week for the bathroom refurbishment, £10.00 per week for the lack of carpets or curtains included in the tenancy and £5.00 per week for the lack of white goods provided by the landlord. This left a net rent of £176.00 per week.
- 19 The Committee considered the question of scarcity in s.70(2) of the Rent Act 1977. At the hearing, Mrs Fox said there was good demand for property in the area which the Tribunal agreed, and applying its own general knowledge of the market the Tribunal found that the number of potential tenants looking for accommodation of this type in the area would have been significantly higher than the number of units available to let. The Tribunal found there was excess demand and deducted £18.00 per week from the market rent to arrive at the statutory basis.
- 20 Deducting £18.00 for scarcity left a net rent of £158.00 per week.
- 21 However, The Rent Acts (Maximum Fair Rent) Order 1999 caps the rate determined by the Tribunal at the level of the previous Registered Rent plus inflation since the date of last registration in January 2017 plus 5%, details of which were provided on the calculation sheet provided with the Decision. Applying this formula, the rent was capped at £115.00 per week at the date of the Decision.
- 22 There were no services to take into account.
- 23 Accordingly, the Tribunal determined the Fair Rent at £115.00 (One Hundred and Fifteen Pounds) per week with effect from 11 February 2019.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman