



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

Case Reference : **BIR/44UB/F77/2019/0002**

Property Coventry, : **2 Woodlands Cottage, Broad Lane, Fillongley, Nr.
CV7 8EH**

Applicant : **Northumberland & Durham Property Trust Limited**

Representative : **Grainger plc**

Respondent : **Miss J.D. Fletcher**

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

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

Date and Venue of Hearing : **Not applicable, paper determination**

Date of Decision : **11 February 2019**

DECISION

- 1 The Fair Rent is determined at £105.00 (One Hundred and Five Pounds) per week from 11 February 2019.

REASONS

Introduction

- 2 Miss Fletcher holds a protected tenancy of 2 Woodlands Cottage, Broad Lane, Fillongley, Coventry, CV7 8EH. The fair rent had previously been registered by the Rent Officer at £93 per week on 31 October 2016 to take effect on 30 December 2016. On 1 October 2018 the landlord applied for an increase to £1,450.80 per Quarter (equivalent to £111.60 per week) and on 20 November 2018 the Rent Officer registered a new rent of £97 per week to take effect on 30 December 2018. Although the landlord requested a Quarterly rent, it is noted that the rent register records a weekly rent, even though for all practical purposes the parties and Tribunal start by considering the rent in monthly terms.
- 3 The landlord appealed against the Decision by letter to the Valuation Office Agency dated 17 December 2018 and the matter was referred to the First-tier Tribunal. The Tribunal inspected the property and reached its decision on 11 February 2019 and the Decision papers were sent to the parties. On 25 February 2019 the Tribunal received a letter from the landlord's agents Grainger plc requesting reasons for the Decision which are the subject of this document.

The Law

- 4 Miss Fletcher is a protected tenant 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 and the tenant responsible for internal decorations in accordance with s.11 of the Landlord and 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 is 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 tenant or their predecessor in title.

Facts Found

- 9 The Tribunal inspected the property on 11 February 2019. It is a three bedroom semi-detached cottage in a rural location near Fillongley, a village about 8 miles from Coventry.
- 10 The cottage is two storey brick and tile construction with a garage and garden. The accommodation comprises an entrance lobby, two reception rooms and kitchen on the ground floor with three bedrooms and a bathroom on the first floor. It is in basic condition requiring modernisation with no central heating or double glazing. There were no white goods, carpets or curtains included in the tenancy.
- 11 There were no tenant's improvements to take into account.

Submissions

- 12 Neither party requested a Hearing.
- 13 The landlord's agents sent a written submission which described the property and provided details of a three bedroom semi-detached house to let in Fillongley to use as a comparable. The asking rent was £750 per month, equivalent to £173 per week, for a standard 1960s estate property with modern facilities.

They made deductions for facilities lacking in the subject flat they considered to be normally found in comparable properties: floor coverings, white goods, double glazing, central heating, a shower and general modernisation for which they deducted £51.90 per month.
- 14 They submitted that there should be an allowance for scarcity as envisaged by section 70(2) of the Rent Act 1977.
- 15 Miss Fletcher did not send any representations.

Decision

- 16 To assess the Fair Rent the Tribunal need to assess the rental value of the flat 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 Grainger and the Tribunal's own general knowledge and experience, the Tribunal assessed the market rent in good condition at £750 per month (£173 per week).
- 18 However, it had not been let in that condition, the tenant had been there for many years and the property needed refurbishment. The Tribunal deducted £10.00 per week for lack of floor coverings, £5.00 per week for lack of white goods, £10 per week for lack of double glazing, £5.00 per week for the unmodernised bathroom and £12.00 per week for lack of central heating. The total deduction for lack of amenity was £42.00 per week.
- 19 £173.00 per week less £42.00 per week for lack of amenity left £131 per week.
- 20 There were no tenant's improvements to take into account.

- 21 The Committee considered the question of scarcity in s.70(2) of the Rent Act 1977 and found that the number of potential tenants looking for accommodation of this type in the area would be significantly greater than the number of units available to let. The Tribunal found that excess demand represented 10% of the market rent and deducted this from the market rent to arrive at the statutory basis for a fair rent.
- 22 Deducting 10% for scarcity left a net rent of £118.00 per week.
- 23 The Rent Acts (Maximum Fair Rent) Order 1999 limited the increase to £105.00 per week set out in the papers sent to the parties with the Decision Notice.
- 24 There were no service charges to be reflected in the rent.
- 25 Accordingly, the Tribunal determined the Fair Rent at £105.00 (One Hundred and Five Pounds) per week with effect from 11 February 2019.

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

Appeal

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after these reasons have been sent to the parties under Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.