



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

Case Reference : **BIR/41UG/F77/2018/0051**

Property : **15A Prospect Road, Stafford, Staffordshire, ST16 3PA**

Applicant : **Darryl Sarginson**

Respondent : **J.L.G. Investments Ltd.**

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
Mr J. Arain**

Date and Venue of Hearing : **None. Paper Determination.**

Date of Decision : **6 February 2019**

DECISION

- 1 The Fair Rent is determined at £382.00 (Three Hundred and Eighty Two Pounds) per calendar month from 6 February 2019.

REASONS

Introduction

- 2 Mr Sarginson holds a protected tenancy of 15A Prospect Road, Stafford, Staffordshire, ST16 3PA. The rent had previously been registered by the Rent Officer at £280.00 per month on 6 March 2008 to take effect from the same date. On 8 October 2018 the landlord applied for an increase to £450.00 per month and on 2 November 2018 the Rent Officer registered a new rent of £389.50 per month to take effect on that date.
- 3 The tenant appealed against the Decision by letter to the Valuation Office Agency on 12 November 2018 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 6 February 2019 and the Decision papers were sent to the parties with a copy of the Maximum Fair Rent calculation. On 4 March 2019 the Tribunal received a letter from the tenant requesting reasons for the Decision which are the subject of this document.

The Law

- 4 Mr Sarginson 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 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 6 February 2019. It is located in a well established residential estate in Stafford within walking distance of the town centre and local facilities.
- It comprises a three bedroom flat on the first floor of a parade of local shops.
- It is in basic condition.
- 10 The accommodation comprises an entrance hall on the ground floor with stairs up to the Flat that comprises a living room, kitchen, three bedrooms, bathroom and separate w.c. There is partial double glazing but no central heating.
- 11 Mr Sarginson had fitted metal security gates to the ground floor entrance to prevent access by local youths which constituted a tenant's improvement to be disregarded from the rent when assessing the Fair Rent under section 70 of the Rent Act 1977.

Submissions

- 12 Neither party requested a Hearing.
- 13 Mr Sarginson's letter of 6 November objected to the Rent Officer's rent on the basis that the lack of central heating made it cold in winter and he considered an increase of almost 40% to be excessive.
- In an earlier letter of 18 October 2019, Mr Sarginson said he was concerned by youths loitering around the shop doorways which was why he had fitted the security gates.
- 14 The landlord's submission comprised an email from Mr S.Singh on behalf of the company where he said that his firm acted as managing agents for the premises at 13A-21A Prospect Road, and the rents of these premises (with the exception of two Regulated Tenancies), were in the range of £425-£495 per month.

Decision

- 15 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.
- 16 Based on the evidence supplied by Mr Singh and the Tribunal's own general knowledge and experience, the Tribunal assessed the market rent of the property, in good condition, at £475.00 per month.
- 17 However, it had not been let in that condition. The Tribunal deducted £10.00 per month for the lack of carpets or curtains, £30 per month for the lack of central heating and £10 for the lack of white goods provided by the landlord. This left a net rent of £425.00 per month.
- 18 The Tribunal 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 have been greater than the number of units available to let. The Tribunal found

there was excess demand and deducted £43.00 per month from the market rent to arrive at the statutory basis.

- 19 Deducting £43.00 for scarcity left a net rent of £382.00 per month.
- 20 The rent was not limited by The Rent Acts (Maximum Fair Rent) Order 1999 as the rent determined was less than the maximum of £391.00 under the Order.
- 21 There were no services to take into account.
- 22 Accordingly, the Tribunal determined the Fair Rent at £382.00 (Three Hundred and Eighty Two Pounds) per calendar month with effect from 6 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.