



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

Case reference : **BIR/OOFK/F77/2019/0004**

Property : **2 Staveley Close
Sinfin Avenue
Shelton Lock
Derby
DE24 9DN**

Applicant : **Mr N Currie**

Representative : **None**

Respondent : **Metropolitan Thames Valley**

Representative : **None**

Type of application : **Application under Section 70 of the Rent Act
1977 by the Applicant against the rent
assessed for the property by the Rent Officer**

Tribunal members : **Mr G S Freckelton FRICS (Chairman)
Mrs K Bentley**

Venue : **Neither party requested a hearing**

**Date of original
decision** : **20th February 2019**

Date of Detailed Reasons : **15th March 2019**

DETAILED REASONS

BACKGROUND

1. On 5th November 2018, the Respondent Landlord applied to the Rent Officer for registration of a fair rent of £90.26 per week for the property 2 Staveley Close, Sinfin Avenue, Shelton Lock, Derby, DE24 9DN. The rent payable at the time of the application was stated as being £71.45 although the Tribunal was informed that the previous registration was £67.00 per week including £3.73 per week in respect of services.
2. The rent was previously registered at this figure with effect from 8th March 2007 following a registration by the Rent Officer.
3. The Rent Officer registered a rental of £92.00 per week with effect from 7th December 2018. There was no mention of a separate amount for services.
4. By letter dated 12th December 2018 2018, the Applicant objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. The Tribunal made a determination of the rent payable on 20th February 2019 and these Detailed Reasons are given in response to a request for same by the Applicant.

INSPECTION

6. The Tribunal carried out an inspection of the property on 20th February 2019 and found it to be a purpose built self-contained first floor flat.
7. The flat is built of traditional brick construction surmounted by a pitched tiled roof.
8. The Tribunal inspected the property by courtesy of the Applicant and found it to comprise a ground floor entrance hall with stairs off to the first floor landing/hallway.
9. To the first floor the landing/hallway leads to a lounge, kitchen with fitted base and wall cupboards and inset sink unit, one double bedroom, one single bedroom and bathroom fitted with a sanitary suite comprising bath, wash hand basin and W.C. There is no shower over the bath.
10. The flat has full uPVC double glazing fitted by the Respondent. There are electric convector heaters to all main areas with an electric fan heater to the bathroom. The Tribunal was informed that this did not work. The fitted carpets and curtains throughout have been provided by the Applicant as have the white goods and all the furniture.
11. There are no private external spaces and no garage. There is communal car parking.

EVIDENCE

12. The Tribunal received written representations from the Applicant which were copied to the Respondent.
13. Neither party requested a hearing and the matter was therefore dealt with by a paper determination.

14. At the inspection the Tribunal noted that the kitchen and bathroom were both dated (the bathroom also lacked a shower) and that the heating system, being electric, would not appeal to all potential tenants.

THE LAW

15. When determining a fair rent, the Tribunal, in accordance with the Rent Act 1977, Section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded the effect of (a) any relevant Tenant's improvements and (b) the effect of any disrepair or other defect attributable to the Tenant or any predecessor in title under the Regulated Tenancy on the rental value of the property.
16. In *Spath Holme Limited v Chairman of the Greater Manchester, etc. Committee* [1995] 28HLR107 and *Curtis v London Rent Assessment Committee* [1999] QB92 the Court of Appeal emphasised (a) that ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms – other than as to rent – to that of the regulated tenancy) and (b) that for the purposes of determining the market rent assured tenancy (market) rents were usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

VALUATION

17. In the first instance, the Tribunal determined what rent the Applicant could reasonably be expected to obtain for the property in the open market if it were let today in the condition that is considered usual for such open market lettings. It did this by having regard to the Tribunal's own general knowledge of market rent levels in the area of Derby.
18. Having taken the various matters into consideration it determined that the open market value of the property in good condition would be the sum of £125.00 per week.
19. However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore, it was first necessary to adjust the hypothetical rent of £125.00 per week to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as observed by the Tribunal (disregarding the effect of any disrepair or other defects attributable to the tenant or any predecessor in title).
20. The Tribunal determined that the following weekly deductions were appropriate:

a) Lack of carpets and curtains	8.00
b) Lack of white goods	5.00
c) Kitchen upgrade	5.00
d) Bathroom upgrade	12.00
e) <u>Heating upgrade</u>	<u>5.00</u>
Total	£35.00

21. The Tribunal then considered the question of scarcity. This is done by considering whether the number of persons genuinely seeking to become tenants of similar properties in the wider area of Nottinghamshire on the same terms other than rent is substantially greater than the availability of such dwellings as required by section 70(2) of the Rent Act 1977.
22. The Tribunal finds that many Landlords dispute that scarcity exists because they are of the opinion that the market is 'in balance'. Although Tenants do not in all cases have difficulty in finding accommodation this ignores the fact that it is the price of such accommodation which creates a balance in the market. Section 70(2) specifically excludes the price of accommodation from consideration in determining whether there are more persons genuinely seeking to become Tenants of similar properties than there are properties available. Although the rental market for Assured Shorthold properties may be in balance many potential Tenants may be excluded from it for various reasons such as age, poor credit history or because they are on housing benefit.
23. In this case the Tribunal, having carried out appropriate research, is satisfied that it is not appropriate to make a deduction for scarcity in this case. This leaves a fair rent for the subject property of £90.00 per week (£125.00 – £35.00). The Tribunal made no separate assessment in respect of the service charge.
24. The Section 70 fair rent determined by the Tribunal is below the level of the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly the rent is therefore determined at £90.00 per week.

DECISION

25. The fair rent determined by the Tribunal for the purposes of Section 70 was accordingly £90.00 per week.

APPEAL

26. If either of the parties is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the upper Tribunal (Lands Chamber), on a point of law only. Any such application must be received within 28 days after these written reasons have been sent to them (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

Graham Freckelton FRICS
Chairman
First-tier Tribunal Property Chamber (Residential Property)