



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

Case Reference : **MAN/00BY/F77/2019/0021**

Property : **77 Rocky Lane, Liverpool L16 1JB**

Landlord : **BPT (Bradford Property Trust) Limited**

Tenant : **Brian Foster**

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

Tribunal Members : **Colin Green (chairman) and Ken Kasambara**

Date and venue of hearing : **Determination on the papers following an inspection of the Property on 10 April 2019**

Date of Decision : **10 April 2019**

REASONS FOR DECISION

DECISION

A fair rent of £510 00 per calendar month was determined by the Tribunal on 10 April 2019 with effect from the same date

REASONS

Preliminary

1. On 7 December 2018, an application for registration of a fair rent for 77 Rocky Lane (“the Property”) was received by the Rent Officer from Grainger Residential Management Limited (“the Agent”) on behalf of BPT (Bradford Property Trust) Limited (“the Landlord”). The Property is tenanted by Brian Foster (“the Tenant”). There is no service charge.
2. A rent of £518.00 per calendar month was determined by the Rent Officer on 21 January 2019 with effect from 6 March 2019.
3. On 18 February 2019, the Agent objected to the registered fair rent and requested the Rent Officer to refer the matter to the Tribunal.

Inspection

4. The Tribunal inspected the Property internally and externally on 10 April 2019. The Property is a semi-detached house comprising two ground floor living rooms and a kitchen and three bedrooms and a bathroom on the first floor, with gardens front and rear. There is PVC double-glazing but no central heating. The letting is unfurnished.
5. The Tribunal noted the following items of landlord’s disrepair: the external drains at the front of the Property, and damp on the bedroom windows, front and rear. Necessary improvements consist of the installation of a central heating throughout and updating the roof. Tenant’s improvements consist of new fires and surrounds, kitchen units, garage, shed, garden fencing and ceiling repairs.

Evidence

6. The Tribunal received written representations from the Agent which provided details as to the location of the Property, that they considered the Landlord to be responsible but recognised that the Property was not to modern day standards. Also included were details of three other properties, all three-bedroom semi-detached houses in Childwall, available for letting together with the asking rents: at Bentham Drive, at £895.00 pcm, Bowring Park Road at £850.00 pcm, and Dominic Close at £795.00 pcm. Written representations were received from the Tenant by a letter dated 6 March, commenting on the comparables, pointing out that they had central heating, and detailing works of improvement that had been carried out, and the need for a new roof. Neither party requested a hearing when oral representations could have been made. The Tribunal therefore re-convened following the inspection to consider its decision.

Law

7. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, Section 70:
 - 7.1. Has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
 - 7.2. Disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
 - 7.3. Assumes (as required by s70(2) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other

words that the effect of such 'scarcity' on rental values is not reflected in the fair rent of the subject property.

8. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasised that section 70 means:

- 8.1. that ordinarily a fair rent is the market rent for the subject property discounted for “scarcity”, and

- 8.2. that for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between these comparables and the subject property)

9. Thus, once the market rent for the Property has been determined by the exercise above, that rent must be adjusted, where necessary, for any scarcity.

10. The Tribunal must consider the application of the provisions of the *Rent Acts (Maximum Fair Rent) Order 1999* by calculating the maximum fair rent applicable to the Property in accordance with the formula contained in the Order.

Valuation and Fair Rent

11. The Tribunal determined what rent the Landlord could reasonably be expected to obtain for the property in the open market if it were let now in the condition that is considered fit and usual for such an open market letting.

12. The Tribunal carefully reviewed the comparables provided and it was considered that the Property fell within the range of rents provided, but the Tribunal also had regard to the presence of central heating and the fact that these were asking rather than actual rents, and that the Property has a much larger garden area than is usual for properties in the locality. The Tribunal considered that in the light of the evidence and its general knowledge of rents in the locality the market rent for the Property in the condition referred to in paragraph 11 above would be £700 00 per calendar month including white goods and some furnishings.
13. Having regard to the condition of the property from its inspection and relying on its own and general experience in the region the Tribunal concluded that the Property is below the condition considered fit and usual for a modern letting at such a market rent. Therefore, it was considered appropriate to make some adjustment and allow for the condition of the property as seen and commented upon by the Tribunal.
14. Accordingly, the assessment of the fair rent is as follows:

Market rent in good condition	700 00 per calendar month
White goods and furnishings	(70.00)
Landlord's neglect	(10.00)
Necessary improvements	(100.00)
Tenant's improvements	(10.00)
	<u>(190.00)</u>

Occupational rent 00 per calendar month

510.00

15. The Tribunal does not consider that in the present-day market, there is any substantial scarcity element and accordingly no further deduction is made for scarcity
16. The rent is however, subject to the capping provisions of the 1999 order. After effecting the appropriate calculation, the Tribunal determined that the fair rent assessed above was below the maximum fair rent for the Property, which was calculated to be £545.50 per calendar month.

Signed: Judge Colin Green

Dated: 02 May 2019