



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

**Case Reference** : **CHI/43UB/F77/2019/0012**

**Property** : **23 Old Manor House, Thames Ditton,  
Surrey KT7 0NU**

**Landlord** : **Northumberland & Durham Property Trust Ltd.**

**Represented by** : **Grainger Plc**

**Tenant** : **Ms. M. H. Scott**

**Type of Application** : **Rent Act 1977 (“the Act”) Determination  
by a First Tier Tribunal of the fair rent  
of a property following an objection to  
the rent registered by the Rent Officer.**

**Tribunal Members** : **Mr. R.A. Wilkey FRICS (Valuer Chairman)  
Mr. B. H. R. Simms FRICS (Valuer Member)**

**Date of Inspection** : **Tuesday 30 April 2019  
No hearing. Paper determination.**

**Date of Decision** : **Tuesday 30 April 2019**

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**DECISION AND REASONS**

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## **Background**

1. On 10<sup>th</sup> December 2018 the landlord applied to the Rent Officer for registration of a fair rent of £1,257.45 per month for the property. The Application states that the landlord provides additional services in accordance with attached sheets and that the amount attributable thereto is £93.45 per month. This sum is included within their requested £1,257.45 per calendar month.
2. The last registration by the Rent Officer on 31<sup>st</sup> January 2017 was £1,125 per calendar month, effective from 4<sup>th</sup> March 2017. The sum attributable to services is £112.83 but this sum is not stated to be a variable service charge. The amount of the uncapped rent was not stated on the register.
3. On the 23<sup>rd</sup> January 2019, the Rent Officer registered a fair rent of £1,125 per annum, effective from 4<sup>th</sup> March 2019. The sum of £93.45 is attributable to services and this is included in the registered rent. The Rent Officer refers to services “as per schedule in possession of the rent officer” and this schedule was attached to the application. The amount of the uncapped rent is not stated on the register.
4. The landlord objected to the rent determined by the Rent Officer and the matter was referred to the First Tier Tribunal (Property Chamber) Residential Property.
5. Directions for the conduct of the matter were issued by the Tribunal Office on 22<sup>nd</sup> March 2019 and, amongst other things, the parties were advised that the determination will be made on the written representations unless a request for an oral hearing is made within fourteen days. Neither party requested a hearing at which oral representations could be made.’

## **Inspection**

6. The Tribunal Members inspected the property on Tuesday 30<sup>th</sup> April 2019 in the company of the tenant, Ms. Scott. The landlord had been informed of the inspection but was not present or represented.
7. The property is a self-contained flat formed by conversion in an older

property on the second floor of the building with accommodation comprising two bedrooms, living room, kitchen, bathroom and WC. The living room and one of the bedrooms has access to a small, private balcony which overlooks the communal grounds. There is unallocated on-site car parking some distance from the building and communal grounds. There is no passenger lift.

8. The main roof is of mansard style incorporating rooms within the roof space. The main walls have rendered and painted elevations. The windows are double glazed timber casement type and were installed by the landlord in 2015.
9. Central heating and hot water are provided by a gas fired boiler within a cupboard in the kitchen which was installed by the landlord in 2015.
10. The tenant has provided curtains, white goods and fitted kitchen units. The floor coverings were provided by the landlord but they are some 19 years old and worn in places.
11. The Tribunal formed the overall impression that the property was being adequately maintained for a property of this age and method of construction. During the inspection, the tribunal noted water stains to some internal surfaces which appeared to be old and decay to the timber handrail to the balconies.
12. The Tribunal has not been provided with a copy of any Tenancy Agreement but the Application states that the tenancy began on 1<sup>st</sup> June 1983. As far as repairing and decorating liabilities are concerned, the Application to the Rent Officer states that the landlord is responsible for repairs and external decorations and that the tenant is responsible for internal decorations. This is the basis on which the rent has been registered – subject to Section 11 Landlord and Tenant Act 1985. The parties have not made any observations on the basis of repairing and decorating obligations.

### **Representations**

13. Neither party has made a request for a hearing. The Tribunal thus proceeded to make the determination based on the inspection and written

representations, supplemented with its own knowledge and experience.

14. The tenant made written representations by letter dated 6<sup>th</sup> April 2019. This did not make reference to any comparable lettings but the following points are extracted for completeness:
  - (a) No works have been carried out since the last registration
  - (b) The landlords have neglected to make repairs to water damage to two rooms following my notification.
  - (c) Damage has been caused to my carpets by the landlord's contractors
  - (d) The electric's property [sic] had been neglected to the extent that a cable caught fire
  - (e) I installed the kitchen myself and the tiling

15. The landlord made written representations and referred to the following comparables within 1 mile of the subject property. It is not stated whether or not the asking rents were achieved:

Lovelace Gardens, Surbiton

This is a first floor, 3-bedroom flat with allocated off street parking. The asking rent was £1,495 pcm.

Essex House, Ditton Close, Watts Road, Thames Ditton

This is a first floor, 3-bedroom flat. The asking rent is £1,475 pcm.

16. The above is a summary of the points made by the parties and the Tribunal has considered the whole of the contents of the above documents in making its decision.

**The law**

17. When determining a fair rent, the Committee, in accordance with section 79 of the Rent Act 1977, had regard to all the circumstances including

the age, location and state of repair of the property. The Committee also disregarded the effect of (a) any relevant tenant's improvements and (b) 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

18. (a) 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) 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 those comparables and the subject property)

19. The Rent Acts (Maximum Fair rent) Order 1999 applies to all applications for registration of a fair rent (other than a first application for registration) made to the Rent Officer on or after 1 February 1999. Its effect is to place a "cap" on the permissible amount of the increase of a fair rent between one registration and the next by reference to the amount of the increase in the retail price index between the date of the two registrations plus 7.5% in the case of a first re-registration and 5% thereafter. The Committee must first determine a fair rent ("the uncapped rent") and then consider whether the Order applies so as to limit the increase in the rent ("the capped rent")

20. There are two principle exceptions. This is not the first registration so the relevant exception is contained in Art.2(7) of the 1999 Order and is as follows:

"This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed."

The Tribunal has not been made aware of any relevant works carried out to the property by the Landlord since the last registration.

## Valuation

21. First of all the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today on the terms and in the condition that is considered usual for such an open market letting. The tribunal had regard to the comparables provided by the landlord and supplemented this with its own knowledge of general rent levels for this type of property and determined that the starting point should be £1,350 per month.
22. However, this starting rent is on the basis of a letting in good, modernised condition. In this case, adjustment must be made to reflect the work carried out by the tenants and the need for work of modernisation and repair as the rental bid in present condition would differ from the rent if the property were in good, modernised condition. In order to reflect all the relevant considerations, the Tribunal has made the following deductions from the starting point of £1,350 per month:

Worn carpets and curtains provided by tenant	£ 40.00
White goods provided by tenant	£ 30.00
Kitchen refurbished by tenant	£ 35.00
Tenant responsible for internal decorations	£ 30.00
TOTAL DEDUCTIONS	£135 per month
Adjusted rent	£1,215 per month

23. We then considered the question of scarcity as referred to in paragraph 18(a) above. In the case of *Metropolitan property Holdings ltd. v Finegold (1975) 1 WLR 349*, Lord Widgery said “If the house has inherent amenities and advantages, by all means let them be reflected in the rent under subsection(1); but if the market rent would be influenced simply by the fact that in the locality there is a shortage, and in the locality rents are being forced up beyond the market figure then that element of market rent must not be included when the fair rent is being considered.” This statement

highlights the distinction between increase in rents that results from the benefits of local amenities which is permitted under section 70(1) of the 1977 Act, and increases in rent that are caused by demand exceeding supply which is not permissible and regulated by section 70(2) of the 1977 Act.

24. The Tribunal is required to consider scarcity in respect of demand and supply in the context of a sizeable area so as to ensure that the benefits of local amenities are neutralised and also to give a fair appreciation of the trends of scarcity and their consequences. The Tribunal should only give a discount for scarcity if it is substantial.
25. The Tribunal has given the matter careful thought and concludes that there is no substantial scarcity element in an area within a radius of approximately 50 miles of the subject property. Accordingly, no further deduction was made for scarcity.
26. Whilst both the Rent Officer and the Tribunal are required to provide a sum for “services”, as it is included in the overall rent assessed and therefore not payable in addition to that rent, its level may be considered somewhat academic. The services said to be provided are referred to above but this has no effect on the Fair Rent assessed.
27. We therefore determined that the uncapped Fair Rent is £1,215 per month exclusive of council tax and water rates.
28. The Tribunal finds that by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that could have been registered in the present case is the sum of £1,264 per month.
29. As the adjusted rent is below the rent calculated in accordance with the Maximum Fair Rent Order, we determine that the lower sum of £1,215 per month is registered as the fair rent with effect from Tuesday 30<sup>th</sup> April 2019
30. For information only, details of the rent calculated in accordance with the Maximum Fair Rent Order details are shown on the rear of the Decision

**Accordingly, the sum of £1,215 per month will be registered as the fair rent with effect from Tuesday 30<sup>th</sup> April 2019, being the date of the Tribunal's decision.**

**Chairman: R. A. Wilkey**

**Dated: Tuesday 30<sup>th</sup> April 2019**



## **Appeals**

31. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
32. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
33. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend the time limit, or not to allow the application for permission to appeal to proceed.
34. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.
35. If the First-tier Tribunal refuses permission to appeal, in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission.