



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

Case Reference : **CHI/29UG/F77/2019/0016**

Property : **8 Dover Road, Northfleet, Gravesend,
Kent DA11 9QG**

Landlord : **Southfleet Investments Ltd**
Representative : **None**

Tenant : **Mr T Watts**
Representative : **None**

Type of Application : **Rent Act 1977 – Section 70
Appeal of Registered Rent**

Tribunal Members : **R T Athow FRICS MIRPM (Chairman)**
P A Gammon MBE BA (Lay member)

Date of Inspection : **15th May 2019**

Date of Decision : **15th May 2019**

DECISION

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Background

- 1) On 18th December 2018 the landlord made an application to register the rent of the property at £670.00 per month.
- 2) The rent payable at the time of the application was £629.50 per month. This took note of the capping regulations in force. The uncapped rent was £680.00 per month.
- 3) The rent was previously registered on 8th August 2016 with effect from the same date at £ 629.50 per month following a determination by the Rent Officer.
- 4) On 5th February 2019 the rent officer registered a fair rent of £711.50 per month exclusive of rates with effect from that date. This took note of the capping regulations in force. The uncapped rent was £750.00 per month.
- 5) On 7th March 2019 the tenant objected and the matter was referred to the First Tier Tribunal (Property Chamber).

Inspection

- 6) The Tribunal inspected the property on 15th May 2019 in the presence of the tenant and it appeared to be in good condition for its age and character. No representative from the landlord attended the inspection.
- 7) It is a semi-detached house that was built about 100 years ago, about 1 mile from Gravesend town centre. The River Thames is close by as are local shops and schools.
- 8) The accommodation comprises 3 bedrooms, bathroom/WC, 2 receptions, kitchen. There is a Worcester Bosch wall mounted gas fired boiler in the bathroom which supplies central heating and domestic hot water. This was installed by the landlord about 30 years ago. About five years ago most of the windows and the rear door were replaced with Upvc double glazed units. There is small utility/workshop off the entrance hall. Outside there are gardens front and rear. There is off street parking in the front garden. All mains services are connected.
- 9) During the inspection the Tribunal noted the property has been well maintained
- 10) The tenant has provided all of the white goods in the kitchen as well as carpets and curtains.
- 11) The following tenant's improvements had been made to the property –
 - Replaced the old kitchen and bathroom with modern fittings.
 - Carried out both interior and exterior decorations.
 - Rewired throughout.

- Replaced seven radiators.
- Installed a DPC to the front of the house.
- Fitted new doors internally.
- Had generally maintained the property himself.

Evidence

- 12) No written representations were received from either party.
- 13) Neither party requested a hearing at which oral representations could be made.

The law

- 14) When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard 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. That section also required the Tribunal not to take into account the personal financial and other circumstances of the tenant.
- 15) 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).
- 16) 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 that:
- a) Ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' 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 these comparables and the subject property).
- 17) For the purpose 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).
- 18) The Rent Act (Maximum Fair Rent) Order 1999 limits the increase from the previous registered rent. It is worked out by a formula based on the change in Retail Prices Index since the last registration plus a fixed percentage increase set by law. If the Rent Officer or the Tribunal decides the

property is worth more than the maximum fair rent, the maximum fair rent becomes the registered rent. If the valuation is lower than the maximum fair rent, that valuation becomes the registered rent.

- 19) There are two occasions when the maximum fair rent will not apply:-
If there is no existing registered rent, and
If the landlord has improved or repaired the property and the Rent Officer and/or the Tribunal considers the improvement or repair has made the rent at least 15% more than the existing registered rent. However, neither of these provisions apply in this case.

VALUATION

The Market Rent

- 20) The Tribunal firstly determined what rent the landlord 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 an open market letting exclusive of water rates and council tax.
- 21) The letting market has grown substantially in recent years and there is now ample evidence of open market rents for Assured Shorthold Tenancies. In the competitive market that now exists, such properties need to be in first class structural and decorative order and be equipped with all amenities such as full modern central heating, double glazing and other energy-saving facilities along with white goods, carpets and curtains to ensure the property attains its full rental income potential. Where such items and facilities are missing the rent is found to be correspondingly lower.
- 22) The Rent Officer has provided a working sheet and a brief redacted list of comparables upon which he relied in computing his market rent. The list does not give full postcode addresses and so we were unable to see if any were in the immediate locality. The Rent Officer's worksheet computations started with an open market valuation of £950 per month from which he made adjustments of £200 to give a Fair Rent of £750. He computed the capping and, as the Fair Rent was above this, the capping came into effect and the rent was registered at £711.50 per month.
- 23) Neither party provided any evidence of open market lettings, and the Tribunal therefore relied on its members own knowledge and experience of general rent levels for this type of property in this area.
- 24) It concluded that an appropriate open market rent for the property let on a modern open market letting of an Assured Shorthold Tenancy where the landlord supplies white goods, carpets and curtains and the tenant has no liability to carry out repairs or decorations would be £1,150.00 per month.
- 25) However, the Tribunal noted at its inspection the actual property is not in the condition considered usual for a modern letting at a market rent, and it was necessary to adjust that hypothetical rent of £1,150.00 per month to allow for the differences between the condition considered usual for such a letting and the condition of the actual property.

26) The Tribunal takes into account several items to arrive at the rent that it decides is the market rent. These are broken down in the decision to show the proportional effect of each of these items on the adjusted rental value. Whilst there is no laid down formula for arriving at the sums to be allocated towards these items the Tribunal has used its own knowledge and experience in arriving at these figures.

- (a) Tenants' Improvements
- (b) Repairing and Decorating Liabilities
- (c) White Goods
- (d) Carpets and Curtains

27) The Tribunal considered these factors separately and then considered whether the overall reduction was justified. We are satisfied that it is, and has therefore made the following deductions from the starting point as set out above.

28) We decided to make a deduction of 40% for these factors and determined an adjusted rent of £690.00 per month.

Scarcity

29) The Tribunal did not consider that there was any substantial scarcity element for this type of property in this area and accordingly no further deduction was made for scarcity.

The Decision

30) We therefore determined the uncapped Fair Rent is £690.00 per month exclusive of council tax and water rates.

31) As this amount is below the rent calculated in accordance with the Rent Acts (Maximum Fair Rent) Order 1999 details of which are shown on the rear of the Decision notice we determine the sum of £690.00 per month is registered as the Fair Rent with effect from 15th May 2019.

R T Athow FRICS MIRPM
Chairman

Dated 15th May 2019

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber), which may be on a point of law only, 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.

2. 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.

3. 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 time or not, to allow the application for permission to appeal to proceed.

4. 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.