



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

**Case Reference** : **MAN/00EQ/F77/2019/0029**

**Property** : **77, Oak Lane, Wilmslow, Cheshire  
SK9 6AF**

**Tenant** : **Mr. M Mannion**

**Landlord** : **Northumberland & Durham  
Property Trust Limited**

**Representative** : **Grainger plc**

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

**Tribunal Members** : **Tribunal Judge C Wood  
Ms S Latham**

**Date of  
Determination** : **24 May 2019**

**Date of Decision** : **11 July 2019**

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**DECISION**

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## **1. Order**

The Tribunal determines that the fair rent payable is £108.00 per week.

## **2. Background**

2.1 The Tenant holds under a weekly tenancy governed by Part VI of the Rent Act

1977 (“the Act”). By an application dated 19 December 2018, the Landlord applied to the Rent Officer for registration of a fair rent of £110.50 per week. The last registered rent on 15 February 2017, effective from 21 March 2017, was £85.00 per week.

2.2 On 11 February 2019, the Rent Officer registered a rent of £95.00 per week, effective from 21 March 2019.

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2.3 By letter dated 5 March 2019, the Landlord objected to the rent as registered and requested the Rent Officer to refer the matter to the First Tier Tribunal (Property Chamber) (“the Tribunal”), and so the fair rent to be registered in respect of the Property fell to be determined by the Tribunal.

2.4 The application was scheduled for determination on Friday 24 May 2019, with an inspection of the property on the same date at about 11:30.

## **3. Inspection**

3.1 The Tenant was present at the Property during the inspection.

3.2 The Property is a mid-terraced property. It is located in a good residential area with pedestrian access to local amenities. The accommodation comprises, on the ground floor, hall, living room and a small kitchen. The Tenant had constructed a glazed outrigger which served as additional space for white goods/utility room. On the first floor, there are 2 double bedrooms. The bathroom is accessed through one of the bedrooms. The bathroom was re-fitted by the Landlord in 2018, including installation of an inside W.C. and removal of lead piping. There is double-glazing but no central heating. There is a small garden to

the rear of the Property, with a shed erected by the Tenant; there is a former coal store and outside W.C. To the front of the Property, there is off-road parking.

3.3 The Tenant pointed out the following to the Tribunal:

- (1) the Tenant had provided all carpets, curtains and white goods;
- (2) the Tenant had installed all kitchen fittings;
- (3) the Tenant had improved the driveway;
- (4) the Tenant had paid for the installation of a gas supply;
- (5) the Tenant had installed an electric fire in the living room (in replacement of a faulty gas fire installed by the Landlord);
- (6) the Tenant had erected the glazed outrigger and had painted the doors;
- (7) there was plaster cracking to some of the ceilings.

#### **4. The Law**

4.1 When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, has regard to all the circumstances, save for personal circumstances, including the age, location and state of repair of the property. It also, as required by law, disregards 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. In this way a landlord does not benefit by way of increased rent from any tenant's improvements and the tenant does not benefit from any defaults on his or her part that would otherwise have lowered the rental value of the property.

4.2. 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

- (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 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).

## **5. Reasons**

5.1 In making its determination, 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 in the condition that is considered usual for such an open market letting. It did this by having regard to its own general knowledge of market rent levels in the locality.

5.2 Written representations were received from both Landlord and Tenant as follows:

- (i) the Landlord provided information relating to 4 properties which were said to be within close vicinity of the Property and were to be regarded as comparables. Two of these properties had been let at £213.46 per week and £230.77 per week respectively, whilst the asking rents for the other two properties were £219.00 per week and £265.00 per week;
- (ii) the Tenant acknowledged the works which had been done in 2018 to the bathroom and referred to the considerable inconvenience which had been caused to them as a result.

5.3 The Tribunal was unconvinced that the Landlord's submissions constituted comparable evidence. Without limitation, it was clear from the particulars including a floor plan that the bathroom of these properties was not accessed through one of the bedrooms, a feature of the Property that the Tribunal considered had a significant effect on its rental value.

5.2 The Tribunal determined as follows:

- (i) that an open market rent for the Property would be £170.00 per week;
- (ii) this rent was then adjusted as follows:

Open market rent per week	:	170.00
Less:		
Lack of provision of white goods, carpets and curtains	:	<u>17.00</u>
		153.00

Less:

Landlord's necessary improvements/neglect:

“pot sink” kitchen:	10.00	
Lack of central heating:	<u>17.00</u>	
		<u>27.00</u>
		126.00
Less:		
Tenant’s improvements:		
Improvement to driveway:		10.00
Installation of gas supply:		<u>8.00</u>
		<u>18.00</u>
Fair Rent	:	<u>£108.00</u>

5.3 The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 do not apply because of the exemption applicable because the rental value of the bathroom improvements exceed 15% of the previously registered rent of £85.00 per week.

5.4 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.

**Signed: Judge C Wood**

**Date: 11 July 2019**