



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

Case Reference : **MAN/00EN/F77/2019/0037**

Property : **Ivy Cottage, Saughton lane, Saughton, Chester,
Cheshire CH3 6EG**

Landlord : **The Trustees of the 4th Duke of Westminster's
1964 Settlement**

Tenant : **Mr. Rodney Churms**

**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 22 July 2019**

Date of Decision : **22 July 2019**

Date of Reasons : **02 August 2019**

REASONS FOR DECISION

DECISION

A fair rent of £427.00 per calendar month was determined by the Tribunal on 22 July 2019 with effect from the same date

REASONS

Preliminary

1. On 8 March 2019, an application for registration of a fair rent for Ivy Cottage (“the Property”) was received by the Rent Officer from the Grosvenor Estate, Eaton office (“the Agent”) on behalf of The Trustees of the 4th Duke of Westminster’s 1964 Settlement (“the Landlord”). The Property is tenanted by Mr. Rodney. Churms (“the Tenant”). There is no service charge.
2. A rent of £421.00 per calendar month was determined by the Rent Officer on 16 April 2019 with effect from that date.
3. On 25 April 2019, the Tenant 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 22 July 2019. The Property is an end terrace house constructed well over a century ago comprising a ground floor living room and a kitchen/dining area and bathroom/wc, and two bedrooms on the first floor, with very substantial gardens front, side and rear. There is PVC double-glazing and central heating. The letting is unfurnished.
5. The Tribunal noted the following items of landlord’s disrepair: small areas of damp in bedroom 1. Necessary improvements consist of a dated kitchen and bathroom. There were no Tenant’s improvements.

Evidence

6. The Tribunal received written representations from the Tenant who stated that there are other houses in the area having more rooms than the Property which have not had so large an increase as that determined by the Rent Officer for the Property (£379.50 in March 2017 to £421.00 two years later). No details of such properties or of their increases in rent were provided. No written representations were received from the Landlord or the Agent. 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 considered the Tenant’s representations but in the absence of any details of the houses to which he was referring it was not possible to have regard to the comparables he had in mind or determine the significance (if any) of the rental increases they had undergone in comparison to the Property. The Tribunal considered that in the light of 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 £625.00.00 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 general experience in the region the Tribunal considered it appropriate to make some adjustments.

14. Accordingly, the assessment of the fair rent is as follows:

Market rent in good condition	625.00 per calendar month
White goods and furnishings	(63.00)
Landlord's neglect	(5.00)
Necessary improvements	(10.00)
Tenant's improvements	(0.00)
	<u>(78.00)</u>
Occupational rent per calendar month	<u>547.00</u>

15. The Tribunal considered that given the location and layout of the Property – within the scenic village of Saighton and with extensive garden land -- in the present-day market there is a substantial scarcity element which was assessed at 15%, of the market rent (£94.00), reducing the occupational rent to £453.00 per calendar month

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 above the maximum fair rent for the Property, which was calculated to be £427.00 per calendar month.

Signed: Judge C. Green

Dated: 02 August 2019