



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

Case Reference : **MAN/00EU/F77/2019/0032**

Property : **42 Ellen Street, Warrington
Cheshire WA5 0LY**

Tenant : **Mr.A Payton**

Landlord : **Mr.S Mather**

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

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

Date of Decision : **12 June 2019**

REASONS FOR DECISION

1. Order

The Tribunal determines that the fair rent payable is £98.00 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 4 February 2019, the Landlord applied to the Rent Officer for registration of a fair rent of £120.00 per week. The last registered rent on 18 April 2016 was £85.00 per week.
- 2.2 On 22 March 2019, the Rent Officer registered a rent of £92.00 per week.
- 2.3 By letter dated 10 April 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 Wednesday 12 June 2019, with an inspection of the property on the same date at about 11:45.

3. Inspection

- 3.1 The Tenant and his wife were present at the Property during the inspection.
- 3.2 The Property is a mid-terraced property with a small garden to the front. It is located in a good residential area with pedestrian access to local amenities. The accommodation comprises, on the ground floor, hall, living room, kitchen and bathroom. The Tenant had built a conservatory off the kitchen. On the first floor, there are 3 rooms, 1 double, 1 single and a box-room. There is double-glazing and gas central heating throughout the Property. There is a yard to the rear of the Property, with a shed erected by the Tenant.
- 3.3 The Tenant pointed out the following to the Tribunal:
 - (1) the Tenant had provided all floor coverings, curtains and white goods;
 - (2) the Tenant had installed the shower;

- (3) the Tenant had installed fitted wardrobes in the double bedroom;
- (4) the kitchen fittings were about 15 years old;
- (5) the bathroom fittings were about 5 years old.

4. Hearing

- 4.1 Mr.S Mather, the Landlord, attended the hearing. The Tenant did not attend.
- 4.2 It was explained to Mr. Mather that the written representations which he had brought to the hearing could not be accepted by the Tribunal but that he was able to make oral representations.
- 4.3 Mr.Mather made the following submissions regarding the rents payable for comparable properties to the Property:
 - (1) he confirmed that he regarded the property as a 2-bedroom property;
 - (2) he referred to the following 3 properties, all of which he regarded as comparable properties to the Property:
 - (i) 2 bedroom terraced house in Rhodes Street - £575 per month;
 - (ii) 2 bedroom terraced house in Earl Street - £550 per month;
 - (iii) 2 bedroom terraced house in Dickenson Street - £550 per month
 - (iv) 2 bedroom terraced house in Cyril Street - £525 per month
 - (3) it was not clear whether the bathroom in the above properties was downstairs as in the Property;
 - (4) in the Earl Street and Cyril Street properties, he considered that the bathroom fittings were dated, whilst in the Dickenson Street property the kitchen fittings appeared dated;
 - (5) in addition, the Earl Street property had no front garden, a very small kitchen and the staircase is in the lounge;
 - (6) Mr.Mather was unable to confirm if the rents quoted were asking rents or let rents;
 - (7) he stated that £550 per month was the higher end of a range of rents between £520 per month and £550 per month;
 - (8) whilst reference was made to a number of house shares in the immediate vicinity to the Property, he accepted that these did not, in fact, constitute comparable properties;

5. The Law

5.1 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.

5.2. 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).

6. Reasons

6.1 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 the evidence produced to it by the Landlord at the hearing as detailed in paragraph 4.3 above and to its own general knowledge of market rent levels in the locality.

6.2 The Tribunal considered that, of the evidence produced by the Landlord to the Tribunal, the property constituting the nearest comparable to the Property was the property in Cyril Street which was being offered for let at £525 per month.

6.3 The Tribunal determined as follows:

(i) that an open market rent for the Property would be £120.00 per week;

(ii) this rent was then adjusted as follows: £ per week

Open market rent per week	:	120.00
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Less:

Lack of provision of white goods, carpets

and curtains	:	<u>12.00</u>
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108.00

Less:

Landlord's necessary improvements/neglect:

Dated kitchen fittings	5.00
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Dated bathroom fittings	<u>5.00</u>
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10.00

Fair Rent:	<u>£98.00</u>
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6.4 The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because it is the same as the maximum fair rent prescribed by the Order of £98 per week.

6.5 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.