



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

**Case Reference** : **MAN/30UH/F77/2019/0022**

**Property** : **Flat 4, 3, Croftlands, Westbourne Road,  
Lancaster LA1 5DD**

**Tenant** : **Mrs J Jessop**

**Landlord** : **Mr S Gershon**

**Type of  
Application** : **Application requesting reasons for the  
determination of a Fair Rent under Section  
70 Rent Act 1977**

**Tribunal Members** : **Mr J R Rimmer  
Mr J Rostron**

**Date of Decision** : **31<sup>st</sup> May 2019**

**Date of Reasons** : **15<sup>th</sup> July 2019**

## **Decision**

**The fair rent for the property at Flat 4, 3, Croftlands, Westbourne Road, Lancaster is determined at £66.00 per week with effect from 31<sup>st</sup> May 2019**

## **Reasons for Decision**

- 1 These are the reasons for the decision of the First-tier Property Tribunal appointed to set a fair rent for Flat 4, 3, Croftlands, Westbourne Road, Lancaster. The landlord of the property is Mr Simon Gershon and the tenant is Mrs Julie Jessop.
- 2 Application was originally made for a fair rent on the appropriate Form 5 by the landlord and dated 21<sup>st</sup> November 2018. At that time the passing rent was stated as being £51.00 per week, registered by the Rent Officer on 4<sup>th</sup> July 2005 and effective from that date. This is not a property in respect of which any further charge is made for the provision of services.
- 3 Within the current application the landlord suggested a new fair rent of £79.00 per week. He subsequently provided submissions to the Rent Officer in support of his application by letter dated 21<sup>st</sup> November 2018, together with a copy of a structural inspection carried out by a Chartered Structural Engineer. There were also representations from the tenant submitted by letter dated 15<sup>th</sup> December 2018 and both parties made further submissions to the Tribunal. The Rent Officer also held a consultation at the property on 14<sup>th</sup> January 2019.
- 4 The Rent Officer and the Tribunal were also provided by copies of correspondence between the parties relating to the current condition of 3, Croftlands and also a report from a local estate agent as to the rental value of the subject property and advertised rents for lettings in the locality.
- 5 After consideration of this current application the Rent Officer set a new fair rent of £66.00 per week on 28<sup>th</sup> January 2019 to be effective from that date. This is below the level of the rent that would be the maximum rent permissible under the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 and the amount of £66.00 per week was registered accordingly.
- 6 Following the decision of the Rent Officer the landlord objected to the registration and the matter was referred to the First-tier Tribunal.

7 Accordingly, on the morning of 31<sup>st</sup> May 2019 the Tribunal comprising J R Rimmer (Judge) and J Rostron (valuer) inspected Flat 4 and found it to be a first floor flat within a 3 storey property which is divided into a number of separate dwelling units. The building is understood to date from about 1860 and is of stone construction, under a slate roof. The building is currently undergoing extensive renovation which would appear to require considerable time to complete. Work has already been carried out in relation to fire safety requirements, fabric repairs and the demolition of a former garage. The ground floor of the premises is now the subject of redevelopment. The roof over the entrance to the building appears to be in poor condition.

8 The flat itself consists of one reception room and one bedroom together with kitchen and bathroom/wc. A metal fire escape from the bedroom appears to be in poor condition. The flat itself is spacious for the nature of the accommodation and reflects the room sizes of the original building. The bathroom is dated and the kitchen would be very basic, but for improvements carried out by the tenant, who has also provided the only form of heating, which is electric. Double glazing is absent. There would appear to be some continuing problem with relatively minor, but constant, damp/water penetration and the aluminium window frames are also dated. Externally, the front pathway/yard is currently in a state of renovation. The property is situated within easy walking distance of the local amenities of Lancaster City Centre and from where public transport is available to destinations further afield.

9 In the absence of a request for a hearing by either party the Tribunal reconvened later the same day to consider what it had seen on its inspection and read in the extensive submissions that had been received.

10 The primary duty upon a Tribunal is to assess a fair rent in accordance with S70 Rent Act 1977: that is to assess a market rent for the property having regard to its age, character, locality, state of repair and any other relevant circumstances, but disregarding any increase in that rent attributable to the “scarcity element”, that being the amount by which the market rent is increased by there being a greater demand for than availability of similar properties to let in the locality, and also discounting any improvements made by the tenant outside the tenancy agreement or any disrepair attributable to the tenant in breach of the agreement. (Given what is set out below the committee determined in due course that no such “scarcity element” existed). Personal circumstances of the parties are also to be disregarded.

- 11 So far as an appropriate fair rent is concerned there has been well established guidance for the benefit of Tribunals handed down by the High Court and the Court of Appeal as to how they fulfil their obligations with regard to assessing the rent and properly taking into account the above factors e.g Spath Holme Ltd v Chairman of the Greater Manchester and Lancashire Rent Assessment Committee (1995) 28 HLR 107 and Curtis v London Rent Assessment Committee (1999) QB 92
- 12 The clearest starting point is to consider any similar property, if such exists, in the locality let at a market rent under the Housing Act 1988, using that rent as the basis for a fair rent but then making the appropriate deductions. Direct evidence was given to the Tribunal, within the landlord's submission, of rents being sought for properties in the locality considered to be comparable. The Tribunal may then also use its own experience and skill gained from setting both fair and market rents over the whole of North West England generally, and Lancashire in particular, in order to assess the appropriate fair rents for the property and the strength of the evidence submitted.
- 13 the Tribunal was not convinced by the evidence provided by Martin & Co, given the nature of the spartan information about the comparable properties and what appeared to be the more modern nature of most of them. It also appeared that there had been no direct attendance by them to the subject property to bolster the view that a rent of £575.00 to £600.00 per month might be attainable (particularly as the majority appear to have been advertised, and not necessarily let, at £550.00 per month).
- 14 The Tribunal considered a more likely achievable market rent for a property such as Flat 4, would be in the region of £475.00 per month, or its weekly equivalent of £110.00, given that the rent has been registered historically on a weekly basis. This would better reflect the age and corresponding characteristics of the building and the current state of ongoing renovations. Modern lettings also tend to reflect the provision of carpets, curtains and white goods, not present here and for the lack of those items a deduction of £11.00 per week should be made from that starting point. The Tribunal then considered further discounts of £6.00 and £7.00 appropriate to reflect the lack of double glazing and central heating respectively. Given the nature of the contents of the thumbnail photographs of the suggested comparables, those properties reflect far more modern kitchen and bathroom facilities than those at the subject property. A further allowance of £20.00 per week should be made for their dated condition. These amounts reduce the net rent to £66.00 per week.

15 This amount is below the maximum fair rent allowable under the Rent Acts (Maximum Fair Rent) Order 1999 of £78.50 per week at the time of the Tribunal's determination. The Tribunal accordingly determines the fair rent for Flat 4, 3, Croftlands, Westbourne Road, Lancaster to be £66.00 per week, with effect from 31<sup>st</sup> May 2019, that being the date of the determination.

J R RIMMER (Judge)