



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

Case Reference : **BIR/00CN/F77/2019/0033**

Property : **42 Needham St., Birmingham, West Midlands, B7**
5QH

Applicant : **Friendship Care and Housing**

Respondent : **Mrs Hazel Pittaway**

Type of Application : **Appeal against the Rent Officer's Decision of Fair**
Rent under : **the s.70 Rent Act 1977**

Tribunal Members : **Mr I.D. Humphries B.Sc.(Est.Man.) FRICS**
Mr J. Arain

Date and Venue of : **None. Paper Determination.**
Hearing

Date of Decision : **22nd October 2019**

Date of Reasons : **6 November 2019**

DECISION

- 1 The Fair Rent is determined at £85.50 (Eighty Five Pounds Fifty Pence) per week from 22nd October 2019.

REASONS

Introduction

- 2 Mrs Pittaway holds a protected tenancy of 42 Needham St., Birmingham, B7 5QH. The rent had previously been registered by the Rent Officer at £72.50 per week on 30th June 2015 to take effect that day. On 24th May 2019 the landlord applied for a new rent of £65.67 per week and on 20th August 2019 the Rent Officer registered a new rent of £78.50 per week to take effect from that date.
- 3 The tenant appealed against the Decision by letter to the Valuation Office Agency dated 2nd September 2019 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 22nd October 2019 and the Decision papers were sent to the parties with a copy of the Maximum Fair Rent calculation. On 29th October 2019 the Tribunal received a letter from the tenant requesting reasons for the Decision which are the subject of this document.

The Law

- 4 Mrs Pittaway is a protected tenant as acknowledged by the landlord. We have not been provided with a copy of the tenancy agreement but understand the property had been let unfurnished with the landlord responsible for repairs to the structure and exterior and the tenant responsible for internal decoration in accordance with s.11 of the Landlord & Tenant Act 1985.
- 5 Accordingly, the rent falls to be determined in accordance with s.70 of the Rent Act 1977.
- 6 S.70(1) states that in determining a fair rent, regard has to be had to all the circumstances of the tenancy (other than personal circumstances) including the age, character, locality and state of repair of the house, whether the property is let furnished and whether a premium had been paid or would be required to renew, continue or assign the tenancy.
- 7 s.70(2) adds a further qualification that it is assumed that the number of parties seeking to become tenants of similar houses in the locality on the terms of the tenancy (other than the rent) is not substantially greater than the number of houses available to let on such terms. This is usually referred to as 'scarcity' and the Court of Appeal held in *Spath Holme Ltd. v Chairman of the Greater Manchester Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 that under normal circumstances the fair rent would be the market rent discounted for scarcity. The Court also held that assured tenancy rents could be considered comparable to market rents.
- 8 s.70(3) requires the valuation to disregard any disrepair due to a tenant's failure to comply with the terms of the tenancy and any improvements carried out by either the tenants or their predecessor in title.

Facts Found

- 9 The Tribunal inspected the property on 22nd October 2019. It is a two storey brick and slate, end-terraced house fronting Needham Street but adjoining Mount Street, a road with industrial property on the opposite side and in particular a scrap metal yard opposite the subject house. This is clearly undesirable and its presence has been reflected in the rental value determined by the Tribunal.

Generally, the location is about two miles north east of Birmingham city centre with shops and other facilities within easy reach.

- 10 The accommodation comprises an entrance hall, living room and kitchen on the ground floor with a landing, three bedrooms and bathroom on the first floor. The property has double glazing and central heating. Outside, the property has a small front garden and back garden fronting Mount Street.
- 11 Mrs Pittaway had a garage and verandah built and a shower fitted in the bathroom which are tenant's improvements to be disregarded from the rent under section 70 of the Rent Act 1977.

Submissions

- 12 Neither party requested a Hearing.
- 13 Mrs Pittaway wrote to the Tribunal on 2nd September drawing attention to the proximity of the scrap yard and vibrations caused by skip lorries causing damage to the building. She also advised that it was cold and draughty in the winter due to cracks in the building.
- 14 The landlord did not send any submissions.

Decision

- 15 To assess the Fair Rent the Tribunal need to assess the rental value of the house in good condition as a starting point, assuming it has been well maintained and modernised with central heating, reasonable kitchen units and a bathroom suite in fair condition, fully equipped with carpets and curtains and ready to let in the open market.
- 16 The Tribunal found the accommodation to be in fair condition (disregarding any effects of the tenant's occupation as required by the Rent Act 1977). Based on the Tribunal's own general knowledge and experience, the Tribunal assessed the market rent of the property in good condition at £140.00 per week.
- 17 However, it was not let in that condition. The Tribunal deducted £5.00 per week for the garage, £5.00 per week for the verandah and £1 per week for the electric shower which are tenant's improvements, £15.00 per week for the lack of carpets or curtains and £5.00 for the lack of white goods provided by the landlord. This left a net rent of £109.00 per week.
- 18 The Tribunal considered the question of scarcity in s.70(2) of the Rent Act 1977 and found that there would have been substantially more applicants for properties of this type to let than properties to let in the area and deducted £11 to reflect this. This left a net rent of £98.00 per week.
- 19 However, the rent was limited by The Rent Acts (Maximum Fair Rent) Order 1999, details of which were provided with the Decision Notice, limiting the maximum Fair Rent to £85.50 per week.

20 There were no services to take into account.

21 Accordingly, the Tribunal determined the Fair Rent at £85.50 (Eighty Five Pounds Fifty Pence) per week with effect from 22nd October 2019.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Date: 6 November 2019

Appeal

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after these reasons have been sent to the parties under Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.