



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

<b>Case Reference</b>	:	<b>LON/00BF/F77/2019/0175</b>
<b>Property</b>	:	<b>44 Ambleside Gardens, Sutton, Surrey. SM2 5ES.</b>
<b>Type of Application</b>	:	<b>Decision following an objection to a registered rent, under the Rent Act 1977.</b>
<b>Date of Decision</b>	:	<b>27 November 2019.</b>
<b>Tenant</b>	:	<b>Mr. L. Sales</b>
<b>Landlord</b>	:	<b>Orbit South Housing Association Ltd</b>

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**Reasons for the decision**

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**Background**

1. By an RR1 dated 25 June 2019, the landlord made an application to register the rent of the property at £166.77 per week inclusive of £9.21 per week fixed service charge.
2. On 28 September 2019 the Rent Officer registered the rent at £182.50 per week, inclusive of service charge of £5.17 per week, but exclusive of rates. The uncapped rent was stated to be £210.00 per week.
3. On 29 August 2019 the landlord objected, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. On 30 September 2019 the Tribunal sent standard Directions to both parties requiring the landlord to send to the tenant and the Tribunal a written statement with their assessment of the rent and for the tenant to make a response.
5. Written representations were received from the landlords in which they said that they would not be charging the registered rent, but would be charging £115.83 inclusive of service charge from 30 September 2019, and that they had served a notice of rent increase on the tenant.

6. The landlord's main objection was that the new registered rent included a service charge of £5.17 per week, whereas the budget figures supplied to the rent officer showed a sum £9.21, and the amount registered was well below that figure. The landlords also said that '*therefore the new rent has not only been capped to the maximum rent in accordance with the current law, but is also below the registered rent*'. It is not clear what the landlord means by this, but it must be assumed that they say the rent they will charge will be below the maximum fair rent, and the service element does not reflect the actual costs incurred.
7. The tenant did not provide a statement or any evidence on which they wished to rely.

## **Evidence**

8. The tribunal informed the parties that an inspection would take place on 27 November 2019. However, at the time for the inspection, the tribunal was unable to gain access, and relied instead upon the details contained within the Rent Register. We had also had the benefit of inspecting other similar flats on the development and were familiar with layout etc. The property contains three rooms, kitchen, bathroom/w.c and has the benefit of a garage. The Register confirms that the property benefits from full central heating.
9. The property itself is contained within a four-storey block on an estate with communal grounds, parking and an underground garage for some tenants. The grounds were well maintained for the time of year, the common parts were clean. At the time of our inspection contractors were on site carrying out works to other properties. There was also a scaffold tower to one block possibly where roof repairs were being undertaken.
10. The external condition of the property was generally good with no significant signs of deterioration or damage.
11. In coming to their registration, the Rent Officer relied on open market lettings of one bungalow and several houses in the South Sutton area with rents ranging from £178.85 to £321.92 per week.
12. Neither party produced comparable evidence, and the tribunal determined based on the inspection and description in the Rent Register that the property would let, on the open market, under the terms of the usual assured shorthold tenancy agreement at £290.00 per week.

## **The law**

13. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard 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.

14. Case law informs the Tribunal;

- 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).

### **Valuation**

15. Thus, in the first instance the Tribunal as noted above the tribunal determined the market rent for the subject property at £285.00 per week.
16. However, the rent referred to above is based on a modern open market letting, where the tenant has no liability to carry out repairs or decorations, has a modern kitchen and bathroom and the landlord supplies white goods, carpets and curtains. In this case the Tenant supplies white goods, carpets and curtains and although the bathroom and kitchen fittings are in good order, they would not be to the standard of a modern letting and would require modernisation.
17. In making its own adjustments to reflect the lower bid a prospective tenant would make to reflect the differences between the property in a modern lettable state and that as provided by the landlord, together with an adjustment for the additional repair and maintenance obligations of the tenant we make a global deduction of 20% arriving at a rent of £232.00 per week, inclusive of service charge.
18. We then considered the question of scarcity as referred to in paragraph 12a above and determined that taking into the very wide area required by case law for scarcity, and taking into consideration the whole of the Greater London area, we determine that there remains an imbalance in the supply and demand for property, and make a deduction of 20% to reflect that imbalance.
19. We therefore determined that the **uncapped Fair Rent is £186.00 per week**, exclusive of council tax and water rates, but including service charges.

20. The tribunal is then required to carry out the calculation in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice. We calculate the maximum fair rent at £183.00 per week, inclusive of service charge.
21. As this figure is below the uncapped fair rent, we find the Maximum Fair Rent Order has the effect of limiting the rent to the lower figure and **we determine that the sum of £183.00 per week inclusive of service charge.**
22. The landlord sought a service charge of £9.21 per week. The previous registered rent identified an amount of £7.44 per week, and the Rent Officer set a figure of £5.17 per week. The tribunal finds the amount set by the Rent Officer to be too low, and that sought by the landlord to provide value to the tenant, and accordingly **we determine the service charge element within the rent of £183.00 per week to be £9.21. The service charge is not variable in accordance with S.18 of the Landlord & Tenant Act 1985, and is therefore fixed until the next registration.**
23. **The new registered rent takes effect from 27 November 2019.**
24. It appears however that the landlord has already served a notice of increase on the tenant at £115.83 per week, inclusive of service charge, and it appears that this objection by the landlord is only to update their records and not to implement any further rent increase, but the landlord should confirm their intentions to the tenant to clarify this issue.

Aileen Hamilton-Farey LLB, FRICS.  
3 December 2019.

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.