



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

Case Reference : **KA/LON/00AQ/F77/ 2019/0097**

Property : **71 Marsworth Avenue, Pinner,
Middlesex, HA5 4TS**

Applicant : **Mrs Margaret McArdle**

Representative : **Mr Ken McArdle (son)**

Respondent : **BPT (Bradford Properties Trust)
Ltd**

Representative : **None**

Type of Application : **Determination of a fair rent under
section 70 of the Rent Act 1977**

Tribunal Members : **Mr Charles Norman FRICS
(Chairman)
Miss Jayam Dalal**

Date of Decision : **2 August 2019**

Date of Reasons : **23 September 2019**

REASONS

Background

1. On 11 March 2019 the landlord applied to the Rent Officer for registration of a fair rent of £1,218 per month per month for the above property.
2. The rent payable at the time of the application was £1,059 per month.
3. On 16 April 2019 the Rent Officer registered a fair rent of £1,100 per calendar month with effect from 27 May 2019.
4. A consultation took place at the property on 16 April 2019 with the Rent Officer and the applicant. The landlord was not represented. A copy of the consultation notes was supplied to the Tribunal.
5. By a letter dated 15 May 2019 the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
6. On 12 June 2019 the Tribunal issued directions setting the matter down for determination by written representations. The landlord was directed to serve any documents or evidence upon which it sought to rely by 5 July 2019 and the tenant by 19 July 2019. The Directions stated that the Tribunal would determine the matter on 2 August 2019 and inspect the property on the same day at some point after 10 am.
7. The Tribunal made its determination on 2 August 2019 and the landlord subsequently requested Reasons.

Inspection

8. The Tribunal inspected the property on 2 August 2019 in the presence of the tenant and her son Mr Ken McArdle. The landlord was not represented.
9. The property comprises a modern three-bedroom semi-detached house dating from around 1960 in an outer suburban location. The property is of brick under a tiled roof. The ground floor comprises a hallway with WC off, large living room and kitchen. Windows are of UPVC double glazing. The kitchen although fitted is original and very basic by modern standards with a linoleum tiled floor. White goods belong to the tenant. The tenant had installed a gas boiler in the kitchen. The property had been rewired by the landlords but with surface trunking and the Tribunal noted a new electrical consumer unit. The living room has a parquet floor and a door to the rear garden. The tenant pointed out mould around the front window frame. The first floor comprises two double and one single bedroom and a bathroom. The bathroom contains original WC and wash hand basin and linoleum floor. The tenant has installed a Triton electric hot water shower. Carpets and curtains have been provided by the tenant. The property has large gardens to front and rear and a garage. The Tribunal noted that some exterior redecoration was required.

Evidence

The Landlord's Case

10. The landlord produced written representations in which it submitted that the property was three-bedroom with double reception room in a desirable area serviced by three rail stations, the nearest being 0.8 mile distant. The landlord referred to 3 comparables. A property at Norman Crescent Pinner was recently let at £1,725 per calendar month having three bedrooms one bathroom with garden. A three-bedroom property at Lyndhurst Avenue Pinner with one bathroom and garden had been let at £1,700 per calendar month. Another three-bedroom property at Burlington Close Pinner also with three bedrooms, one bathroom, and garden had been let at £1,700 per calendar month. Agent's details of these properties were supplied. The landlord submitted that the fair rent was £1,100 per calendar month.

The tenant's case

11. Mr McArdle submitted that the subject property would have to be substantially improved to command a rent commensurate with the landlord's comparables. Mr McArdle referred to the present condition of the kitchen, the presence of lead pipes, the condition and age of the bathroom and the fact that the central heating was a tenants' improvement. He also submitted that there was some subsidence, repairs to the flat front roofs were necessary, exterior redecoration needed and repairs to the garage front door required. He also referred to the surface mounted electrical rewiring which he submitted would not be acceptable on a new letting.

The Law

12. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property.
13. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Tribunal* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Tribunal* [1999] QB 92 the Court of Appeal emphasised 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 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

14. The Tribunal externally viewed the three comparables put forward by the landlord. It found that Burlington close was recently built and therefore discarded that comparable. Having regard to the comparables at Lyndhurst Avenue and Norman Crescent, the Tribunal took as a starting point a monthly rent of £1,750 had the subject property been in the condition usual for a modern letting on the open market.
15. However, the subject property is not in such a condition, because the kitchen and bathroom are unmodernised. In addition, the tenants' improvement, central heating, must be disregarded. Further the tenant has provided white goods

carpets and curtains. Also, the terms and conditions of a Rent Act tenancy impose greater obligations as to repair than an assured shorthold tenancy. Therefore, it was necessary to adjust that hypothetical rent of £1,750 per month to allow for the differences between the condition and terms considered usual for such a letting and the condition and terms of the actual property. The Tribunal considered that the effect of these factors required an adjustment from the rent of 25%, or £437.50 per calendar month.

16. This left an adjusted market rent for the subject property of £1,312.50 per month.
17. The Tribunal found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (£262.50 per month) from the adjusted market rent to reflect this element.
18. It follows that the Tribunal found that the fair rent was £1,312.50 less £262.50 per month, or £1,050 per month.
19. The amount of the fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 as the rent falls below that level, the calculations for which were supplied with the Notice of the Tribunal's Decision.
20. Accordingly, the sum of £1,050 per month was determined as the fair rent with effect from 2 August 2019.

*Charles Norman FRICS
Valuer Chairman*

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number),

state the grounds of appeal, and state the result the party making the application is seeking.