



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

**Case Reference** : **CAM/00MA/F77/2019/0033**

**Property** : **2 College Road, College Town, Sandhurst,  
Berkshire GU47 0QU**

**Applicant (Landlord)** : **Dorrington Residential Limited**  
**Representative** : **Allsop Letting & Management Ltd**

**Respondent (Tenant)** : **Mr C D Jones**

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

**Tribunal Members** : **Judge JR Morris**  
**Mrs Wilcox BSc MRICS**

**Date of Decision** : **7<sup>th</sup> January 2020**

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**DECISION**

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**DECISION**

1. The Fair Rent for the Property payable from 7<sup>th</sup> January 2020 is determined to be £680.00 per calendar month which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999.

**REASONS**

**THE PROPERTY**

2. The Property is a self-contained ground floor maisonette in a two-storey building of brick and render under a pitched slate roof. The building is believed to have originally been a detached 4 bed roomed house built in the 1950s and converted into two maisonettes in the 1970s. There are gardens to the front and rear of the Property. At the rear there is parking space for one vehicle for each of the maisonettes.

**Accommodation**

The Property comprises a living room, kitchen two bedrooms and a bathroom.

### Services

The Property has mains electricity, gas, water and drainage. Space and water heating is by a gas fired central heating system.

### Furnishing

The Property is let unfurnished.

### Location

The Property is situated in a residential area off Sandhurst town centre.

## **THE TENANCY**

3. The Tenancy is a statutory regulated weekly tenancy, which commenced on 1<sup>st</sup> January 1968. Being a tenancy for 7 years or less, section 11 of the Landlord and Tenant Act 1985 applies in respect of Landlord's repairing obligations. The Tenant is responsible for internal decoration.

## **THE REFERRAL**

4. The current rent is £655.00 per calendar month registered on 11<sup>th</sup> September 2017 and effective from 3<sup>rd</sup> November 2017. The rent was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. The Landlord by a notice in the prescribed form received by the Valuation Office Agency on 6<sup>th</sup> August 2019 proposed a new rent of £786.00 (expressed on the form as £9,432.00 per annum). On 23<sup>rd</sup> September 2019 the Rent Officer registered a rent of £680.00 per calendar month effective from 3<sup>rd</sup> November 2019. The registered rent was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. On 17<sup>th</sup> October 2019 the Landlord referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations and an oral hearing requested by the Tenant. The Landlord's agent stated that it did not intend to attend a hearing. The tribunal noted that the issues raised by the Tenant related essentially to the condition of the Property and so were dealt with through the Inspection.

## **THE INSPECTION**

5. The Tribunal inspected the Property in the presence of the Tenant.
6. Externally the Property is in fair condition. However, the soffits, fascia and barge boards are in need of redecoration and possibly refurbishment. The cast iron rainwater goods are showing signs of deterioration and there is evidence of the guttering leaking from the marking on the walls and path. The doors are upvc and the windows are double glazed units in upvc frames. There is a crack across the rendered front of the Property. This does not appear to indicate any movement of the building but may be due to some detachment of the render, which is in need of redecoration. The garden path at the rear is roughly done. There is access to the parking spaces shared by the first-floor maisonette at the rear. Vehicular access to these spaces is over the yard of the commercial premises next door, which is currently vacant.

7. Internally the kitchen which originally was only fitted with a kitchen sink unit, is basic and dated and there are insufficient electrical sockets by modern standards. The bathroom and w.c. are also basic and dated. Floorcoverings, curtains and white goods are not provided by the Landlord.

## **THE LAW**

8. The law applicable to this application is contained in the Rent Act 1977.

## **REPRESENTATIONS**

9. The Tenant stated that the Landlord had repaired the boiler, unblocked the kitchen sink pipe, repaired a leaking pipe in the bathroom, replaced the garden fence and made some repair to the garden path. However, these were only carried out after a considerable wait following many calls by the Tenant.
10. The Tenant said that the first-floor maisonette has three bedrooms and is let for £155.00 per week about £670.00 per calendar month. The Tenants have been there for 11 years and have not had an increase in two years. The Tenant felt the discrepancy between rents was unfair
11. The increase asked for by the Landlord was a rise of 16.75% reduced to 11% in their representations but both are more than the 3% rise in pensions.
12. The Landlord's Agent stated in written representations that the property was a self-contained purpose-built ground floor flat comprising two bedrooms, kitchen, lounge and bathroom with central heating, double glazed windows and doors, front and rear gardens and off-road parking.
13. It was submitted that similar properties in the area achieve a rent of between £9,600.00 and £10,740.00 per annum which equates to £800.00 and £895.00 per calendar month. The rental values for the following properties all of which had two bedrooms, a kitchen and a bathroom and were let on assured shorthold tenancies were submitted as being comparable:
  - Arnella Court GU14 rent of £9,600.00 per annum or £800.00 per calendar month
  - Shepherds Chase GU19 rent of £9,600.00 per annum or £850.00 per calendar month
  - Denly Way GU18 rent of £10,200.00 per annum or £850.00 per calendar month
  - Green Lane GU19 rent of £10,500.00 per annum or £875.00 per calendar month
  - Gordon Road GU15 rent of £10,740.00 per annum or £895.00 per calendar monthDetails from the Rightmove Internet site were provided.
14. In view of the above the Landlord's Agent submitted that the market rent to be £10,248.00 per annum equating to £854.00 per calendar month with carpets and white goods.

15. The following calculation of the annual rent was provided:
- |                               |            |                                |
|-------------------------------|------------|--------------------------------|
| Market rent                   | £10,248.00 | (£854.00)                      |
| Plus Carpets/white goods      | £1,025.00  | (£85.40)                       |
| Plus Updated kitchen/bathroom | £2000.00   | (£166.00)                      |
| Uncapped fair Rent            | £13,273.00 | (£1,106.00 per calendar month) |

The capped rent being £727.50 per calendar month.

16. It would appear that the Landlord's Agent is submitting that the rent for the Property in its current state is £854.00 per calendar month and that if carpets and white goods were provided together with an updated kitchen and bathroom the rent would be £1,106.00 per calendar month.

### **RENT ASSESSMENT**

17. The Tribunal assessed the rent for the Property as at the day of the inspection pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances). The Tribunal took account of the relevant cases and legislation including *Spath Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24<sup>th</sup> May 1991.
18. The Tribunal is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market taking into account the matters referred to above. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time.
19. The Tribunal is not able to take the personal circumstances of either party, such as, in this case, that the Tenant receives a pension. It also cannot take into account the length of time repairs have remained outstanding.
20. The Tribunal cannot take into account the Tenant's submission as to the rent for the first-floor maisonette as it is not on the open market and there are no details available regarding the letting.
21. The Tribunal considered the rental values of the properties submitted by the Landlord's Agent as being comparable. The Tribunal found that they were of more recent construction with more modern facilities. In addition, floor coverings and white goods were provided. Nevertheless, the submission provided a guide to the rental values in the general area.
22. The Tribunal found the calculation provided by the Landlord's Agent confusing, as the properties with rents of £800.00 to £850.00 per calendar month, which were submitted as being comparable, had updated kitchens and bathrooms and carpets and white goods provided. On the basis of this evidence, the Agent submitted that the market rent of the Property with the same facilities and in similar condition would be £854.00 per calendar month. However, the Agent then takes the figure of £854.00 per calendar month and

adds an allowance for the provision of these facilities. The Tribunal therefore noted the rental value of the properties that were said to be comparable but did not accept the calculation provided.

23. The Tribunal used the knowledge and experience of its members and determined that the rent for the Property, taking into account the location, in good condition with central heating, double-glazing, modern kitchen and bathroom, and let with carpets and white goods on an Assured Shorthold Tenancy at the time of inspection would be £850.00 per calendar month. The Tribunal found that a deduction of £170.00 per calendar month should be made to take account of the dated and basic kitchen and bathroom and the lack of carpets and white goods which are provided in comparable properties. It also takes account of the general external condition of the Property. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

### **SCARCITY**

24. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
25. That experience and consideration leads the Tribunal to the view that there is no substantial scarcity of "... similar dwelling houses in the locality...", in this case Berkshire as at the day of the inspection, that are available for letting, and so no deduction is made to reflect this.

### **TRIBUNAL'S CALCULATIONS**

- |                       |                            |
|-----------------------|----------------------------|
| 26. Market Rent:      | £850.00 per calendar month |
| Less global deduction | <u>£170.00</u>             |
|                       | £680.00 per calendar month |

27. The Tribunal therefore confirms the Rent Officer's assessment of the rent.
28. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. The capped Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. The capped rent in this case is £726.00 per calendar month, which is less than the Fair Rent assessed by the Tribunal and therefore the uncapped rent of £680 per calendar month is to be registered.

**FAIR RENT = £680.00 per calendar month**

**Judge JR Morris**

**Caution:** The Tribunal inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

#### **APPENDIX - RIGHTS OF APPEAL**

1. If a party wishes to appeal the 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.
2. 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.
3. 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.
4. 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.