



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

Case Reference : **BIR/ 00FY/F77/2019/0038**

Property : **41, Farndale Drive, Nottingham
NG8 2JB**

Applicant : **Taymar Watson**

Respondent : **Metropolitan Thames Valley**

**Respondent's
Representative** : **None**

Application : **Determination of fair rent
Under s70 Rent Act 1977 and the Rent Acts
(Maximum Fair Rent)Order 1999**

Tribunal : **Tribunal Judge P. J. Ellis.
Tribunal Member Colin Gell FRICS.**

**Date of Inspection
And Decision** : **3 December 2019**

Date of Reasons : **14 February 2020**

DECISION

Introduction

1. On 3 December 2019 the First-tier Tribunal made its determination of the rent to be registered under the Rent Acts (Maximum Fair Rent Order) 1999 and the fair rent in accordance with s 70 Rent Act 1977 (the Act). The rent determined was £5897.00pa. The Applicant requested reasons for the Tribunal's decision on 28 December 2019.
2. On inspection the Tribunal found the subject property was a semi detached three bedroom house which was double glazed throughout with gas central and water heating. The lower floor comprised a living room and kitchen diner and a w/c. The upper floor comprised three bedrooms, two double, one single and a bathroom. The landlord supplied kitchen fitted cupboards but the Applicant had supplied all white goods, curtains or window blinds and floor coverings.
3. The tenant pointed out that the Respondent had removed the gas fire from the lounge area for safety reasons and that the room was cold. There was a central heating radiator within the room and whilst the Tribunal cannot comment on the capacity of the radiator to heat the space, it was noted that the efficiency of the radiator was compromised by washing being draped over restricting radiating and convecting heat.
4. The property was built of conventional brick and tile construction in or around 1987 as part of an estate of mixed houses and apartments. The property was first let to the Applicant's mother. The Applicant succeeded to the tenancy upon the death of her mother in 2015.
5. The terms of the tenancy imposed decoration liability on the tenant. The landlord is responsible for repairs and external decorations.
6. The last rent registration prior to the subject registration was October 2005. The rent registered with effect from 30 October 2005 was £4160.00 pa.

The Statutory Framework

7. S70 Rent Act 1977 provides:

In determining, for the purposes of this Part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to—

(a) the age, character, locality and state of repair of the dwelling-house,

(b).....

(c).....

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;

(b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the (e) if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

8. The Rent Acts (Maximum Fair Rent) Order 1999 limits fair rent increases by linking the increase to a Retail Price Index (RPI) formula and applies to applications for registration made on or after 1 February 1999.

9. Under the Order, it is necessary to still determine fair rent in accordance with s70 of The Rent Act 1977. However, there must also be a calculation of the “maximum fair rent” according to a formula linked to RPI.

10. The Maximum Fair Rent Order sets out the formula used for calculating the Maximum Fair Rent.

Determination of fair rent

11. Neither party gave any evidence of comparable rents or any other information which might have affected the rental valuation. The Respondent did not attend and made no written submissions. The Applicant was present during the inspection but did not have any knowledge of local rents. The Rent Officer determined that the open market rent was £7,280.00. The Tribunal relying on its knowledge saw no reason to disagree with that assessment.

12. The Tribunal then determined adjustments required by s70 of the Act as:

5% decoration liability	£364.00
Tenant's white goods	£254.80
Curtains	£109.20
Total for adjustments	£728.00
Less 10% for scarcity:(7280-728)*10% (£6,552)	£655.20
Total for deductions	£1383.20
Fair Rent	£5896.80
SAY	£5897.00

13. The maximum fair rent calculation deduced an increase from £4160.00 to £6464.50 pa but as the fair rent determined in accordance with s70 is £5897.00 the rent is not limited by the Maximum Fair Rent Order. The rent does not include any payment for services or any other element for furniture or council tax and utilities.

Appeal

14. If either of the parties is dissatisfied with this decision they may apply to this Tribunal for permission to appeal on a matter of law to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to them rule 52 of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013).

Tribunal Judge PJ Ellis

Chair