



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

Case Reference : **MAN/00BY/F77/2019/0062**

Property : **73 Broadhill Road, Burnage, Manchester M19
1AR**

Landlord : **Northumberland & Durham Property Trust
Limited**

Representative : **Grainger plc**

Tenant : **Mrs. C. M. Ainsworth**

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

Tribunal Members : **Judge C Green
John Faulkner FRICS**

Date and venue of hearing : **Determination on the papers following an
inspection of the Property on 10 January
2020**

Date of Decision : **10 January 2020**

REASONS FOR DECISION

DECISION

A fair rent of £102.00 per calendar week was determined by the Tribunal on 10 January 2019 with effect from the same date.

REASONS

Preliminary

1. On 25 June 2019, an application for registration of a fair rent for 73 Broadhill Road (“the Property”) was received by the Rent Officer from Grainger Residential Management Limited (“the Agent”) on behalf of Northumberland & Durham Property Trust Limited (“the Landlord”). The Property is tenanted by Mrs. C. M. Ainsworth (“the Tenant”). There is no service charge.
2. A rent of £101.50 per week was determined by the Rent Officer on 16 August 2019 with effect from 8 September 2019.
3. On 7 October 2019, the Agent objected to the registered fair rent and requested the Rent Officer to refer the matter to the Tribunal.

Inspection

4. The Tribunal inspected the Property internally and externally on 10 January 2019. The Property is a semi-detached house comprising a ground floor entrance porch, hall, two reception rooms and kitchen with three bedrooms and a bathroom/wc on the first floor. There are gardens to the front and rear with a car-parking space to the front. Access to the rear garden is via a shared driveway with No. 71. There is uPVC double-glazing and central heating. The letting is unfurnished.
5. The Tribunal noted the following items of landlord’s disrepair: damaged fencing and panels and cracked and uneven hardstanding at the rear, damaged gate to the side of the shared driveway, the door to the rear bedroom requires needs to be rehanged. Necessary improvements are updating the kitchen and bathroom. There were no tenant’s improvements.

Evidence

6. The Agent’s has provided an invoice dated 27 November 2017 in respect of work carried out to the Property after the date of the last registration, being the installation of uPVC windows and doors, fascias, soffits, and rainwater goods at a cost of £15,448.00. In addition, the Tribunal received written representations from the Agent which provided details as to the location of the Property, and details of four other properties, three three-bedroom semi-detached houses in the area, and a three-bedroom terraced house, available for letting together with the asking rents: at Bournelea Avenue at £230.76 per week, Pearn Road at £225.00 per week, Arbor Drive at £196.00 per week, and Hembury Avenue at £206.54 per week. No written representations were received from the Tenant and neither party

requested a hearing. The Tribunal re-convened following the inspection to consider its decision.

Law

7. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, Section 70:
 - 7.1. Has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
 - 7.2. Disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
 - 7.3. Assumes (as required by s70(2) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words that the effect of such 'scarcity' on rental values is not reflected in the fair rent of the subject property.
8. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasised that section 70 means:
 - 8.1. that ordinarily a fair rent is the market rent for the subject property discounted for "scarcity", and
 - 8.2. 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 these comparables and the subject property)
9. Thus, once the market rent for the Property has been determined by the exercise above, that rent must be adjusted, where necessary, for any scarcity.
10. The Tribunal must consider the application of the provisions of the *Rent Acts (Maximum Fair Rent) Order 1999* by calculating the maximum fair rent applicable to the Property in accordance with the formula contained in the Order. Under Article 2(7) there is an exception to such capping where works of improvement or repair carried out since the last registration have resulted in an increase of at least 15% of the previous registered rent.

Valuation and Fair Rent

11. The Tribunal determined what rent the Landlord could reasonably be expected to obtain for the property in the open market if it were let now in the condition that is considered fit and usual for such an open market letting.

12. The Tribunal carefully reviewed the comparables provided and it was considered that they were generally of a higher standard than the Property. Regard was also had to the fact that these were asking rather than actual rents and the Tribunal's general knowledge of rents in the area. It was considered that the market rent for the Property in the condition referred to in paragraph 11 above would be £175.00 per week including white goods and carpets and curtains.

13. Having regard to the condition of the property from its inspection and relying on its own and general experience in the region the Tribunal considered it appropriate to make some adjustments and allow for the condition of the Property as seen and commented upon by the Tribunal.

14. Accordingly, the assessment of the fair rent is as follows:

Market rent in good condition	175.00 per week
White goods and furnishings	(18.00)
Landlord's neglect	(15.00)
Necessary improvements	(25.00)
Tenant's improvements	(00.00)
	<u>(58.00)</u>
Occupational rent per week	<u>117.00</u>

15. The Tribunal does not consider that in the present-day market, there is any substantial scarcity element and accordingly no further deduction is made for scarcity

16. As regards the exemption from capping mentioned in paragraph 10 above, the Tribunal determined that the relevant works amounted to an increase of £12.00 per week, which is less than £13.80 per week, 15% of the previous registered rent. Therefore, the rent is subject to the capping provisions of the 1999 order. After effecting the appropriate calculation, the Tribunal determined that the fair rent assessed above exceeded the maximum fair rent for the Property, which was calculated to be £102.00 per week.

Judge C Green

10 January 2020