



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

Case Reference : **CAM/00MD/F77/2020/0008**

Property : **322 Farnham Road, Slough, Berkshire SL2
1BT**

Applicant (Landlord) : **Mr Om Parkash Sehdev**

Respondent (Tenant) : **Mrs Margaret Maguire**

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

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

Date of Decision : **31st March 2020**

DECISION

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DECISION

1. The Fair Rent for the Property is determined to be £600.00 per calendar month which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999 to take effect from 31st March 2020.

REASONS

THE PROPERTY

2. According to the Rent Register and Street and Satellite Views on the Internet, the Property is a purpose-built duplex flat/maisonette. It is situated on the first and second floors over ground floor commercial retail premises in a shopping parade. The building was probably constructed in the 1960s. From the vent pipes there appear to be eight maisonettes in the row. The building has a flat roof and is constructed of brick with pre-formed panels to the front elevation of the first floor.
3. Access to the flats/maisonettes is at the rear of the building where there is a flight of steps up to a walkway and drying area over the roof of the rear part of the commercial premises below. This area appears to be shared by all the flats/maisonettes in the parade with each maisonette having its front door opening onto the area.

4. The Property comprises a living room and kitchen on the first floor and three bedrooms and a bathroom with w.c. on the second floor. Space and water heating are by a gas central heating system installed by the Tenant. The Subject Property has mains gas, electricity, water and drainage. The Property is let unfurnished.
5. It is situated on the A355 adjacent to Slough trading estate and on the edge of Slough town centre close to a wide range of amenities.

THE TENANCY

6. The Tenancy is regulated under the Rent Act 1977 and commenced in 1966. As a Tenancy, not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs.

THE REFERRAL

7. A rent of £550.00 per calendar month, which was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, was registered on 16th May 2012 and effective from that date. The Landlord by a notice in the prescribed form received by the Rent Officer on 3rd October 2019 proposed a new rent of £1,000.00 per calendar month. On 15th November 2019 the Rent Officer registered a rent effective from that date of £600.00 per calendar month, which was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. On 25th November 2019 the Landlord referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.

THE INSPECTION

8. No inspection took place due to measures introduced to combat the spread of the Coronavirus (COVID-19) and to protect the parties and the public, particularly those at risk. The Procedural Judge wrote to the parties on 17th March 2020 saying:

Given the current situation and considering Public Health England's advice, the Procedural Judge has determined that the Tribunal's planned inspection of the Property on Wednesday 25 November 2020 will no longer take place.

If any party considers that an inspection is essential to deal with the case fairly and justly then that party must notify the Tribunal (and send a copy of such notification to the opposing party) within the next 7 days setting out reasons. The Judge will then determine whether or not the case should be stayed to allow an inspection to be carried out at a later date. Currently we are unable to say when this might be.

Otherwise the Judge will review the papers that have been submitted and decide whether a decision can be made on the basis of the papers – and possibly an external inspection which would not require any entry onto your property. If he does not believe that there is sufficient information to do this then you may be contacted for further information.

9. The Landlord e mailed the Tribunal on 20th March 2020 saying:

I can confirm that it is essential for the property to be inspected internally. As part of any valuation both the internal and external condition of the property should be considered along with its location.

In the current valuation (on appeal) the rent officer inspected the property internally and based their valuation of the internal characteristics and condition of the property. We expect the Tribunal to do the same to ensure fairness.

THE LAW

10. The Law relating to these reasons is contained in section 70 Rent Act 1977.

REPRESENTATIONS

11. The Tenant made written representations saying that she was a 73 year old widow and had lived in the house for 53 years and had with her husband raised three children. She added that she continued to work and her monthly wage was £733.00 and that she had a personal pension of £200.00
12. The Tenant said that in all the years she had lived in the Property there had been a number of Landlords but none had carried out any internal maintenance. She said she had paid for the gas central heating installed 25 years ago, the plumbing and the electrical repairs. All the other flats/maisonettes in the block had had double glazed replacement windows fitted, but the Property still had the original windows. She said that she paid for a gas certificate for the central heating but had not received one for the gas cooker.
13. She said that when the roof leaked and damaged the decorations in one of the bedrooms, she had to re-decorate it herself after it had been repaired.
14. The Tenant referred to the increase in rent from £350.00 in 1993 to £550.00 saying that the Rent Officer had not inspected the Property.
15. The Landlord made written representations saying that the rent had last been registered in 2012 at £550.00 per calendar month and that now in 2019 it was registered at £600.00 per calendar month. He said that this was below the maximum fair rent under the Rent Acts (Maximum Fair Rent) Order 1999 which he calculated is £689.00 per calendar month based on an RPI of 242.4 in May 2012 and 291.7 in August 2019. He requested a justification for the rent being lower than the Maximum Fair rent. He said it had been stated that the Tenant installed the central heating but that no evidence of this had been provided.
16. The Rent Officer assessed a market rent of £975.00 per calendar month on the basis of comparable properties and provided a list of flats that had been considered. In particular list included the market rent for Flat 39 Centrika, Bath Manor Park, Slough which was £975.00 per calendar month. Comparable properties currently on the market are let in good condition with central heating, double glazing, modern kitchen and bathroom and with carpets and white goods. The Rent Officer found that the Property was not in such condition and so made a deduction of £375.00 per calendar month and assessed a rent of £600.00 per calendar month. No deduction for scarcity was made.

ASSESSMENT OF A FAIR RENT

17. The Tribunal decided that as the current situation regarding COVID 19 was likely to continue for a considerable time it was in the interests of justice that a determination should be made if possible. In doing so it took into account:

Rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 which states that:

- (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.
 - (2) Dealing with a case fairly and justly includes—
 - (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;
 - (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
 - (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
 - (d) using any special expertise of the Tribunal effectively; and
 - (e) avoiding delay, so far as compatible with proper consideration of the issues.
 - (3) The Tribunal must seek to give effect to the overriding objective when it—
 - (a) exercises any power under these Rules; or
 - (b) interprets any rule or practice direction.
 - (4) Parties must—
 - (a) help the Tribunal to further the overriding objective; and
 - (b) co-operate with the Tribunal generally.
18. The parties had been given an opportunity to make representations regarding the assessment of rent and no hearing had been requested. The Tribunal would normally make an inspection of the Property but the Tribunal considered that it had sufficient information regarding the condition of the Property on the basis of the Rent Register, the Rent Officer's calculations, the Street and Satellite View and the representations made by the parties.
19. In response to the request for reasons as to why the Tribunal should not make a determination based upon the papers alone the Landlord expressed the view that he considered an inspection essential. However, he did not put forward any reasons as to why he considered it essential. The Tenant made no response. In the absence of reasons that an inspection was essential the Tribunal was of the opinion that it had sufficient evidence to make a determination in this case.
20. The Tribunal assessed the rent for the Property 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 *Spatha 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* 24th May 1991.
21. The Tribunal, like the Rent Officer, 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.

22. The Tribunal is not able to take the personal circumstances of either party into account. It cannot therefore take into account the age, marital status or finances of the Tenant.
23. With regard to the condition of the Property the Rent Register for 2012 recorded that the central heating had been installed by the Tenant. Previous Landlords would have had an opportunity to challenge this entry if it had been incorrect but none had done so. The Tribunal therefore had no reason to doubt its veracity and found that the Property did not have central heating as let and that this was installed by the Tenant.
24. The Tenant stated in her representations that the Property had single glazed metal windows, and this has not been contradicted by the Landlord. The Tribunal therefore found that the Property had metal single glazed windows.
25. If the original kitchen and bathroom when the Property was let were in situ these would be dated. There is no mention in the representations of a previous or of the current landlord having installed a new bathroom or kitchen or having provided carpets or white goods. The Tenant said that she had paid for all the plumbing and the electrical repairs and this appears to be the case from the amount of the deduction from the market rent made by the Rent Officer in 2019 and 2012. The Tribunal therefore found on the balance of probabilities that the Property had a dated kitchen and bathroom and that carpets and white goods were not provided.
26. Neither party provided rental values for comparable properties. Therefore, the Tribunal used the knowledge and experience of its members and noted the properties referred to by the Rent Officer, in particular Flat 39 Centrika, Bath Manor Park, Slough which was £975.00 per calendar month. From information on the Internet it is noted that the flats at Centrika, Bath Manor Park, Slough are purpose built and are situated on a main road. They were constructed circa 2000 and comprise a block of similar properties with parking spaces. The block is located in an area adjacent to residential property. The Centrika flats have central heating, double glazing and modern kitchen and bathroom. They have two bedrooms one with an ensuite.
27. Although the Property is also purpose built and situated on a main road nevertheless it is adjacent to a trading estate and the flat/maisonette itself is over commercial premises. It has three bedrooms but only one bathroom. Also, the building in which the Property is a part is dated. Overall, in the Tribunal's opinion the Property is less attractive than a flat in the Centrika block.
28. Taking into account the differences and similarities of the two properties in terms of age, external condition, location and layout, the Tribunal determined that a market rent for the Property with central heating, double glazing, modern kitchen and bathroom, and let with floor coverings and white goods on an Assured Shorthold Tenancy would be £900.00 per calendar month.
29. The Tribunal then considered the evidence that it had available with regard to the Property and found that it lacked central heating, double glazing, modern kitchen and bathroom, floor coverings and white goods for which it made a global deduction

of £300.00 per calendar month. 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

30. 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.
31. That experience and consideration leads the Tribunal to the view that at the time of the determination demand for "... similar dwelling houses in the locality..." that are available for letting was not *significantly* greater than supply. "Locality" in this case being Berkshire. Therefore, no deduction was made to take account of scarcity.

TRIBUNAL'S CALCULATIONS

32. Open Market Rent:	£900.00 per calendar month
Less global deduction	<u>£300.00</u>
Fair Rent	£600.00

33. The Tribunal therefore confirms the Rent Officer's uncapped rent.
34. 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 rent is £690.50 per calendar month, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the Tribunal is to be registered.

FAIR RENT = £600.00 per calendar month to take effect from 31st March 2020.

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.

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal 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.
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.