



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

Case Reference : **CHI/45UE/F77/2020/0007**

Property : **19 Greenways Walk Crawley West
Sussex RH11 9QF**

Landlord : **Southern Housing Group**

Representative : **None**

Tenants : **Mr J Greenhalgh**

Representative : **None**

Type of Application : **Decision in relation to Rent Act 1977**

Tribunal Members : **W H Gater FRICS MCI Arb**

Date of Decision : **11 May 2020**

Reasons for the decision

Background

1. On 7th November 2019 the landlord made an application to register the rent of the property at £369.69 per month inclusive of £29.84 (variable) per month for services.
2. The rent currently being charged was indicated to be £346.86 per month.

3. On 3rd January 2020 the Rent Officer registered a Fair Rent of £326.77 per calendar month inclusive with effect from 3rd January 2020. The register state that no services are provided.
4. This being a shared ownership property the Gross Rent was noted as £593.86 per calendar month before adjusting for 50% share.
5. The landlord objected on the grounds that the new rent valuation was lower than previously registered. and the matter was referred to the First Tier Tribunal, Property Chamber.
6. The Tribunal made standard directions on 6th February requiring the landlord to send to the tenant and to the Tribunal a written statement as to their assessment of the rent and for the tenant to respond.
7. The Tribunal has not received any submissions from the parties and proceeds now to determine the matter.

Tenancy

8. The tenancy commenced in 1983. No tenancy agreement has been provided .There has been no challenge from the tenant to the information provided by the landlord and rent officer and the terms are therefore assumed to be as stated. The Tenant is responsible for all repairs and decoration.
9. The Rent Officer records show that the property was let unfurnished and that carpets, curtains and white goods were not included on letting.
10. The property is in shared ownership and the tenants share is 50%.

Information

11. The matter is dealt with as a paper determination without hearing. In the current circumstances it has not been possible to inspect the property and the Tribunal relies on evidence from the Rent Officer, the Landlords application publicly available housing data online and its own expert knowledge.
12. From this information the Tribunal notes that this is a terraced house built between 1965-1980.
13. On the ground floor it has one room believed to be a living Room and a Kitchen. On the first floor it has two bedrooms and a bathroom /wc.
14. The rent register states that there is a garden and a car space outside. Neither party has carried out any improvements.
15. The rent register states that there is no central heating.
16. Neither party has provided evidence of lack of disrepair to the property.

17. From internet data of other property in Greenway Walk it appears that the property is in a modern development of similar houses with cavity brick/block walls under a pitched tiled roof.

The law

18. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property. Section 72A requires the Rent Officer to note their opinion of the amount of rent (if any) attributable to the provision of services to the tenant "to assist authorities to give effect to the housing benefit scheme".

The Tribunal's Deliberations

19. The landlord's application states that there are services provided under the tenancy. For the purposes of a Rent Act valuation these are not strictly services to the tenant as they relate to Management Fees (£18.61 per month) and Insurance (£11.23 per month). The Rent officer has therefore registered the rent with no amount attributable to services but has dealt with these charges in the shared ownership rent calculation. The Tribunal approves of this approach.
20. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard the effect of (a) any relevant Tenant's improvements and (b) the effect of any disrepair or other defect attributable to the Tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
21. In *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Panel* [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.
22. In the first instance the Tribunal determined what rent the Landlord could reasonably be expected to obtain for the property in the open market if it were let today on the terms and in the condition that is considered usual for such an open market letting. This rent must exclude the value of tenant's improvements noted above.
23. It did this by considering the evidence provided by the parties and by having regard to the Tribunal's own general knowledge of market rent levels in the Crawley area.

24. It found that the starting point should be in the region of £975 per Calendar month, . It therefore adopted the Rent Officers starting rent.
25. There are differences between the usual terms and condition for a letting at that rent and the circumstances of this letting. These need to be reflected in adjustments from the market rent which might be achieved with the property in usual condition.
26. Reductions were accordingly made from the market rent to reflect the circumstances of this letting as listed below.
27. Further the repair and decorating liability under the subject tenancy is more onerous than in a typical market letting.
28. In the Tribunal's experience a prospective tenant would not go through a detailed exercise of deductions but would make an overall assessment of the level of allowance that would entice them to overlook the difference in circumstances and amenities as offered by the subject property when compared to the letting of a property as described in paragraph 25 above.
29. The Tribunal considers that to reflect these matters a deduction of 20% or £ 195 per month should be made to the starting point market rent. This deduction reflects the following
 - No white goods, carpets or curtains
 - Lack of central heating.
 - Tenants repairing and decorating liability.
30. Therefore £975 per week less £195 per month. **Fair rent =£780 per month.**

Scarcity

31. The Tribunal then considered the question of scarcity.
32. Increases in rent that are caused by demand exceeding supply are regulated by section 70(2) of the 1977 Act and must be excluded in the assessment of a Fair Rent.
33. The Tribunal is required to consider scarcity in respect of demand and supply in the context of a sizeable area to ensure that the benefits of local amenities are neutralised and also to give a fair appreciation of the trends of scarcity and their consequences. The Tribunal should only give a discount for scarcity if it is substantial.
34. The matters taken into account by the Tribunal when assessing scarcity were as follows: -
35. The Tribunal interpreted the 'locality' for scarcity purposes as being the whole area of West Sussex i.e. a sufficiently large area to eliminate the effect of any localised amenity which would tend to increase or decrease rent.
36. Local Authority and Housing Association waiting lists.

37. House prices which could be an indicator of increased availability of housing and a reduction in scarcity.
38. The members of the Tribunal have between them many years of experience of the residential letting market and that experience leads them to the view that there is currently no shortage of similar houses available to let in the locality defined above.
39. Accordingly, the Tribunal made no deduction for scarcity.

Shared Ownership adjustment

40. The Tribunal went on to calculate the correct rent to account for the shared ownership of the property.

	£	
41. Equivalent Fair Rent	780	
Less for full repairing lease	<u>- 78</u>	
	702	
Deduct Management and Insurance	<u>- 29.84</u>	
	672.16	
Adjust for equity share 50%	<u>- 336.08</u>	
Specified rent	336.08	
Add back Management and Insurance	<u>+ 29.84</u>	
Fair rent of share		£365.92

Maximum Fair Rent

42. This is the rent calculated in accordance with the Maximum Fair Rent Order details of which are shown on the rear of the Decision Notice.
43. The Rent Acts (Maximum Fair Rent) Order 1999 restricts the amount by which the rent may be increased to a maximum 5% plus RPI since the last registration.
44. The rent to be registered is not limited by the Fair Rent Acts (Maximum Fair Rent) Order 1999 because it is below the maximum fair rent that can be registered of £399 month prescribed by the Order (details are provided on the back of the decision form).
45. The Tribunal accordingly determines that the sum of **£365.92 per month** as the fair rent with effect from 11 May 2020 being the date of the Tribunal's decision.

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.