



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

**Case Reference** : **BIR/44UE/F77/2020/0013**

**HMCTS (paper, video : P: PAPERREMOTE  
audio)**

**Property** : **9 Victoria Terrace, Stockton, Southam, CV47 8FG**

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

**Representative** : **Grainger plc**

**Tenant** : **Mr R J Cox**

**Type of Application** : **An application under section 70 of the Rent Act  
against the Fair Rent assessed for the Property by  
the Rent Officer**

**Tribunal Member** : **V Ward BSc Hons FRICS**

**Date of Decision** : **22 July 2020**

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**STATEMENT OF REASONS**

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## **BACKGROUND**

1. On 27 January 2020, the Rent Officer registered a rental of £93.00 in respect of the Property, effective from 28 February 2020. The rent prior to this registration was £88.00 per week.
2. By a letter dated 28 February 2020, the Landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
3. The Landlord's objection was submitted slightly late therefore the Tribunal invited submissions from both parties as to whether it should be accepted. The Landlord stated that the delay was due to internal processes. The Tenant made no comment. The Tribunal therefore proceeded to determine the rental.

## **THE PROPERTY**

4. Due to the Covid-19 Public Health Emergency, the Tribunal were unable to carry out an inspection of the Property.
5. From the information provided by the parties, the Property is an end terraced house situated in the village of Stockton which is approximately 2 miles from Southam.
6. The accommodation comprises the following:

Ground Floor	kitchen, two reception rooms
First Floor	three bedrooms, bathroom;
Externally	conservatory gardens front and rear.
7. The Property benefits from central heating and double glazing. The Property does not benefit from any off-street parking.
8. The Tenant had carried out the following improvements:
  - a) Kitchen
  - b) Central heating and radiators
  - c) Shower over bath
  - d) Conservatory
  - e) Double glazing (the submissions indicated that both the Landlord and Tenant had installed elements of the double glazing).
9. The Tenant noted the following items of disrepair:
  - a) Cracking/issues to gable wall and chimney stack
  - b) Repointing required

- c) Boundary walls in poor condition
- d) Roof issues
- e) Lack of external redecoration.

10. The Landlord said that the Property was in fair condition although they acknowledged that the Property is not in a condition commensurate with modern standards.

### **Submissions of the Parties**

- 11. Neither party requested an oral hearing.
- 12. The written representations from the Tenant essentially detailed the improvements carried out and the items of disrepair listed above.
- 13. The representations from Mr Ryan Tucker Portfolio Manager of Grainger Plc on behalf of the Landlord, provided details of the letting of a comparable property also on Victoria Terrace which was let in 2020 at a rental of £196 per week. Making adjustments for the Tenant's improvements of £70 per week left a rental of £126 per week which was higher than the rental sought by the Landlord of £105.60 per week.

### **THE LAW**

- 14. When determining a fair rent, the Tribunal, in accordance with the Rent Act 1977, Section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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.
- 15. In *Spath Holme Limited v Chairman of the Greater Manchester, etc. Committee* [1995] 28HLR107 and *Curtis v London Rent Assessment Committee* [1999] QB92 the Court of Appeal emphasised (a) 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 (b) that for the purposes of determining the market rent assured tenancy (market) rents were usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

### **VALUATION**

- 16. In the first instance, the Tribunal determined what rent the Applicant could reasonably expect to obtain for the Property in the open market if it were let today in the condition that is considered usual for such open market lettings. It did this from its own general

knowledge of market rent levels in the Southam area and by considering the evidence provided within the representations. Having done so, it concluded that such a likely market rent would be £186.00 per week. However, as the Property is not in the same condition as properties in the general market, the Tribunal made a deduction of £25.00 per week to reflect this.

17. To allow for the Tenant's improvements, listed above, and an allowance for decorating liability, it was necessary to make an additional deduction of £40.30 per week.
18. A further deduction of £13.00 per week was made to allow for the Tenant's fittings (floor coverings, curtains and white goods).
19. The Tribunal then considered the question of scarcity. This was done by considering whether the number of persons genuinely seeking to become tenants of similar properties in the wider area of Warwickshire on the same terms other than rent is substantially greater than the availability of such dwellings as required by section 70(2) of the Rent Act 1977.
20. The Tribunal finds that many landlords dispute that scarcity exists because they are of the opinion that the market is 'in balance'. Although tenants do not in all cases have difficulty in finding accommodation, this ignores the fact that it is the price of such accommodation which creates a balance in the market. Section 70(2) specifically excludes the price of accommodation from consideration in determining whether there are more persons genuinely seeking to become tenants of similar properties than there are properties available. Although the rental market for Assured Shorthold properties may be in balance, many potential tenants may be excluded from it for various reasons such as age, poor credit history or because they are on housing benefit.
21. The Tribunal found that there was scarcity and, accordingly, made a further deduction of £10.77 per week.
22. The Tribunal determined that the fair rent for the Property was therefore £96.93 per week rounded to £97.00 per week.
23. The maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 is £98.00 per week. The level of rent determined by the Tribunal is not therefore limited by the Order. Details of the maximum fair rent calculation are provided with this decision.

## **DECISION**

24. The fair rent determined by the Tribunal for the purposes of Section 70 is, therefore, £97.00 per week with effect from 22 July 2020.

25. In reaching its determination, the Tribunal had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert Tribunal but not any special or secret knowledge.

## **APPEAL**

26. If either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) **on any point of law arising from this Decision**. Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013) stating the grounds upon which it is intended to rely in the appeal.

V Ward