



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

**Case Reference** : **CAM/26UC/F77/2020/0009**

**Property** : **60A Akeman St Tring Herts HP23 6AN**

**Applicant (Tenant)** : **Mr S Warren**

**Respondent (Tenant)** : **Mountview Estates plc**

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

**Tribunal Members** : **Mary Hardman FRICS IRRV(Hons)**

**Date of Decision** : **12 August 2020**

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**DECISION**

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**DECISION**

1. The Fair Rent for the Property is determined to be £181.00 per week, which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, to take effect from 1 July 2020.

**BACKGROUND**

2. A rent of £194.50 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £277.00 per week, was registered by the Rent Officer on 10 January 2018. There was an objection to the fair rent and the objection was referred to the First-tier Tribunal for determination. The tribunal determined a rent of £175.00 per week with effect from 14 March 2018.
3. The Landlord, by a notice in the prescribed form, received by the Rent Officer on 16 December 2019 proposed a new rent of £319.00 per week. On 12 February 2020 the Rent Officer registered a rent effective from 14 March 2020 of £192.50 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £212.00 a week. In an application received on 14 February 2020, the Tenant referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.
4. 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 Chair wrote to the parties on 7 April 2020 explaining that the tribunal did not intend to hold an oral hearing or inspect the property internally.

5. The parties were advised that they may request a hearing in which case it would be held by telephone. They were also requested to complete a pro forma supplying details of the property and any further comments that they may wish the tribunal to take into consideration. This could include any repairs and improvements that had been made, any comments on the condition of the property and rentals of similar properties – should they wish to rely on these. They were invited to include photographs and were informed that the Tribunal may use internet mapping applications to gather information about the location of the property and may inspect externally.
6. Unfortunately, the address for return of the pro forma was incorrectly stated as the Residential Property Tribunal(RPT) London office. When this error was noted by the tribunal a further letter was issued to both parties on 4 June 2020 explaining the error, enclosing a new pro forma and asking the parties to supply a copy of any information to the correct address in Cambridge.
7. The London office was closed due to the pandemic and it was not possible at that time to retrieve any post from that office.
8. The landlord returned the pro forma confirming that the property was a maisonette but supplied no further information.
9. No further response was received from the tenant.
10. The tribunal then made their determination based on the information it held and issued the decision to both parties on 2 July 2020.
11. Mr Warren, the tenant, wrote to the tribunal on 3 July 2020 stating that there had been an error as he had sent information to the London Tribunal as original requested and this had not been considered. He sought leave to appeal to the Upper Tribunal.
12. The tribunal decided that the most appropriate way of proceeding in the circumstances was to set aside the previous decision in accordance with aside under Rule 51 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The tribunal wrote to both parties on 14<sup>th</sup> July indicating that it proposed to do this and inviting any comments by 28 July 2020.
13. On 14<sup>th</sup> July the tribunal also received the papers that Mr Hart had sent to the London RPT office and he was informed of this.
14. Mr Warren replied on 16 July 2020 indicating that he was content that the application be treated in this manner. On 17 July 2020 the Landlord also confirmed receipt of the letter from the tribunal and stated that they had nothing further to add and would await the decision.
15. The tribunal issued the decision to set aside the previous decision on 3 August 2020.

## **REASONS**

### **THE PROPERTY**

16. According to the Rent Register, details supplied by the Rent Officer and by the tenant, and the previous decision of the First-tier Tribunal of 14 March 2018 the Property is a three-bedroomed maisonette on the first and second floor of a three storey Georgian house. It is of brick construction with a tiled roof. The property is semi-detached and flush to the street.
17. It has three good sized bedrooms, a large living room, a kitchen/diner and an unmodernised bathroom and separate WC to the first floor. To the second floor is an attic.
18. It has no central heating but is heated by electric storage heaters
19. The property has a car space.
20. The kitchen was fitted by the landlord whilst the tenant provided carpets and white goods.
21. The Tribunal notes that the Rent Officer inspected the Property in February 2020 and that no works had been carried out by the landlord or the tenant since the last Rent Officer inspection – which is assumed to have been around the time of the previous application for registration of a fair rent in early 2018.
22. The Rent Officer also noted damp areas in the living room and bedroom and the attic. Work to the outside of the property had not remedied the problem.
23. The tribunal inspected the property for a previous appeal in March 2018(see paragraph 27 below) and found that the second-floor attic was uninhabitable. Given the landlord has not provided details of any works since that date, the comments of the Rent Officer in respect of no works by either landlord or tenant since the last inspection and of damp in the attic, this tribunal is working on the assumption that this is still the case.
24. The tenant states in his response that the energy efficiency of the property meets only the minimum standards under the Energy Efficiency Regulations 2015.
25. He also states that the sound proofing in the property is poor, particularly in the bathroom/wc.

### **THE TENANCY**

26. The Tenancy is regulated under the Rent Act 1977 and commenced in 1973. 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**

27. A rent of £194.50 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £277.00 per week, was

registered by the Rent Officer on 10 January 2018. There was an objection to the fair rent and the objection was referred to the First-tier Tribunal for determination. The tribunal determined a rent of £175.00 per week with effect from 14 March 2018.

28. The Landlord, by a notice in the prescribed form, received by the Rent Officer on 16 December 2019 proposed a new rent of £319.00 per week. On 12 February 2020 the Rent Officer registered a rent effective from 14 March 2020 of £192.50 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £212.00 a week. In an application received on 14 February 2020, the Tenant referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.

## **THE LAW**

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

## **ASSESSMENT OF A FAIR RENT**

30. The Tribunal decided that as the current situation regarding COVID 19 was likely to continue for some time it was in the interests of justice that a determination should be made if possible.
31. The parties were given an opportunity to make representations regarding the assessment of rent but none were received.
32. The Tribunal, having reviewed the papers was of the opinion that it had sufficient evidence to make a determination in this case.
33. The Tribunal is required to assess 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* 24<sup>th</sup> May 1991.
34. 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.
35. Neither party provided rental values for comparable properties. Therefore, the Tribunal used its knowledge and experience to determine that a market rent for the Property with central heating, double glazing, modern kitchen and bathroom, and let with floor coverings and white goods -which is how most properties are let on the open market- on an Assured Shorthold Tenancy would be in the region of £310.00 per week.
36. The Tribunal then considered the evidence that it had available with regard to the condition of the Property. It found that the property was well below modern

standards that would command that level of rent. There is damp to the bedroom, living room and the attic was uninhabitable. There is no central heating and the white goods and carpets are provided by the tenant and are to be disregarded. The property does not have modern double glazing and needs general refurbishment and updating.

37. Taking these matters into account it made a deduction of 37% or £114.50 per week to the market rent of £310. 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**

38. Assessing a scarcity percentage also 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 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.
39. 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* significantly greater than supply. "Locality" in this case being Buckinghamshire, Hertfordshire and Bedfordshire. However, at the current date the tribunal does not consider that currently this merits an adjustment of more than 7.5%.

### **TRIBUNAL'S CALCULATIONS**

40.	Open Market Rent:	£310.00 per week
	Less global deduction	<u>£ 114.50</u>
	Fair Rent	£ 195.50
	Less Scarcity @7.5%	<u>£ 14.50</u>
	Fair rent	<b>£181.00</b>

41. 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 £193.00 per week, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the tribunal is to be registered.

**FAIR RENT = £181.00 per week to take effect from 12 August 2020.**

**Mary Hardman**  
**Regional Surveyor**

### **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.