



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

Case Reference : **CAM/26UK/F77/2019/0026**

Property : **221, Harwoods Road, Watford,
Hertfordshire WD18 7RU**

Tenant : **Mr Michael Welling**

Landlord : **Northumberland and Durham Property
Trust**

Date of Objection : **9th August 2019**

Type of Application : **Section 70 Rent Act 1977**

Tribunal : **Tribunal Judge Dutton
Mrs M Wilcox BSc MRICS**

Date of Consideration : **4th November 2019**

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DECISION

The sum of £181.00 per week will be registered as the fair rent with effect from 4th November 2019.

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FULL REASONS

1. Background

- (1) In an application dated 11th June 2019, received by the Valuation Office on 12th June 2019, the landlord applied to the Rent Officer (RO) for a re-registration of the fair rent to £807.00 per month for the above property.
- (2) The rent was previously registered by the RO on 24th July 2017, effective from the 11th September 2017.
- (3) On 1st August 2019 the RO registered a fair rent of £180.50 per week with effect from 11th September 2019. It was noted that the uncapped rent was £237.00 per week
- (4) By a letter dated 9th August 2019 Mr Welling objected to the rent determined by the RO and the objection was referred to the Tribunal.

2. Inspection

- (1) The Tribunal inspected the property on 4th November 2019 in the company of Mr Welling, the tenant, the Landlord was not present.
- (2) 221 Harwoods Road, Watford, (the property) is a three bed-roomed inner terraced house built around 1900. At ground floor level there are two living rooms and a kitchen, with larder and an under-stairs cupboard. It is of brick construction with a slate roof. Externally it is in a tired condition, suggesting that it had not been decorated for many years. The chimney appears in need of re-pointing. Its location is good, close to the town centre. There is residents parking available. Internally the property matches the external condition. The kitchen contains a limited range of units. The bathroom is somewhat dated. There appears to be a leak in the bathroom, presumably from the roof. Apparently this has been reported to the landlord. The property has central heating, half the cost being paid by the tenant.
- (3) There is a good sized garden to the rear and gives access to an external WC and a store room. There was evidence of cracking to the render on the rear elevation.

3. Evidence

Neither party requested a hearing. Therefore this matter was considered on the basis of the papers provided by the parties and the Tribunal's own inspection.

(1) Tenant's Representations:

Mr Welling in a letter dated 19th June 2019, in response to the application protested against the proposed rent increase. He cited the Office for National Statistics which suggested that rents for private rented properties in England had risen by 1.1% in the

last year. The proposed increase he said was roughly 15%. He stated that he had installed loft insulation and had paid half the cost of the central heating installation. He complained that the property needed attention from the landlord but that this had not been forthcoming. He referred to matters relating to his personal circumstances, which we noted but cannot take into account.

(2) Landlord's Representations:

The Landlord provided written representations. This confirmed that the Landlord sought a fair rent of £807 per month, rising from the previously registered rent of £702 per month. Reference was made to market comparables in Harwoods Road at £1,500 per month and nearby at Cassio Road at £1,400 per month. With a weekly market rent of £346, a deduction of £10 per month was made for white goods, furnishing and repairing obligations. A further £50 was deducted for the poor kitchen, £25 for the dated bathroom and £100 per month for the condition of the wooden single glazed windows. This gave an adjusted rent they calculated of £282 per week. No deduction was made for scarcity for the reasons stated in the submissions. Poor quality photographs were supplied for the market rent comparables, the details of which we noted.

4. The law

A summary of the law in respect of this case is attached to this decision.

5. Determination and Valuation

(1) 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 in the condition that is considered usual for such an open market letting. The Tribunal considered the market in Watford, from its own general knowledge, rather than any specific knowledge of market rent levels in the area. The Tribunal concluded that an open market rent for three bedroom houses in the vicinity would be in the region of £1,450 per month, or £335 per week, consistent with the Landlord's assessment.

(2) We need to consider any deduction to reflect the disrepair and condition and the basic level of amenities. We have ignored any lack of repair on the part of the tenant. The windows are in poor repair, single glazed and in need of external decorating and the Property suffers from some water ingress in the bathroom. The kitchen is poor with a very limited range of units. The bathroom is likewise somewhat dated. The tenant has responsibility for internal decorations, something that would not be included in an open market letting. Taking these matters into account we consider that a reduction in the open market rent of 30%, or £100.50 fairly reflects these issues. This therefore reduces the open market rent to £234.50

(2) Next we need to consider the issue of scarcity. We were not provided with any specific evidence on this issue. However, the issue of scarcity is considered on the

basis of the number of properties available to let on the terms of the regulated tenancy and also considering the demand for such properties and over a really large area. Therefore using our general, rather than any specific knowledge and experience, we consider that in the wide geographical area being north west of Greater London to include Buckinghamshire, Hertfordshire and Bedfordshire there is an imbalance between supply and demand and this impacts upon rental values. Accordingly we make a deduction of approximately 10% for scarcity. The full valuation is shown below.

	£/week
Market Rent	335.00
Less	
Carpets, Curtains and White Goods)	
Original dated kitchen/bathroom/disrepair)	
and terms of letting)	<u>100.50</u>
	234.50
Scarcity	<u>23.45</u>
Fair rent	£211.05

6. Decision

The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £211.50 per week. This is above the capped rent shown on the Notice which is £181 per week, an increase of 50p on the rent registered by the RO. The rent of £181.00 per week is to be registered as the fair rent or this property.

Accordingly the sum of £181.00per week will be registered as the fair rent with effect from 4th November 2019 being the date of the Tribunal's decision.

Tribunal Judge Dutton
Mrs M Wilcox MRICS

Date: 4th November 2019



First-tier Tribunal Property Chamber (Residential Property)

The Law Relating to the Assessment of Fair Rents

INTRODUCTION

1. This is a brief summary of the law applied by the Tribunal (formerly called a Rent Assessment Committee) when reaching its decision. It is an integral part of the decision.

2. The definition of **Fair Rent** is contained in the Rent Act 1977 i.e.:-

70(1) In determininga fair rent under a regulated tenancy of a dwelling house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to:-

- a) the age, character, locality and state of repair of the dwellinghouse
- b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture, and
- c) any premium, or sum in the nature of a premium.....

70(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwellinghouses in the locality on the terms (other than those relating to rent) of the regulated

tenancy is not substantially greater than the number of such dwellinghouses in the locality which are available for letting on such terms

70(3) There shall be disregarded:-

- a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his.....
- b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his
 - e) **if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him or any sub-tenant of his**

3. *The Tribunal also has to take into account the Human Rights Act 1998. However, when interpreting the Rent Act 1977 (primary legislation) the Tribunal will have to follow the wording of the Act if it cannot be read or given effect in a way which is compatible with rights contained in the European Convention on Human Rights. Any party dissatisfied will then have to refer the matter to the High Court for the making of a Declaration of Incompatibility.*
4. All other rights granted by the Convention such as the right to a fair and public hearing by an independent tribunal and the right to respect for a person's private and family life are to be observed by the Tribunal
5. There have been a number of cases decided over the years most of which have been either unreported or reported only in professional journals. However in 1997 a Court of Appeal decision was reported as *Curtis v London RAC (No. 2) [1997]4 AER 842* where the Court reviewed the various authorities and provided guidance to Tribunals to assist them in reaching decisions.
6. The Court confirmed that a Tribunal must first find an open market rent for the property taking into account evidence before it from the parties and the Rent Officer. It will not consider other registered rents unless there are very exceptional circumstances which will be set out in the decision if appropriate.
7. A Tribunal can use such factors as comparable rents being paid for similar properties in the locality, capital values and return on expenditure as well as the experience and expertise of its members.
8. Having established an open market rent the Tribunal then has to consider the deductions and allowances referred to above
9. In all cases the Tribunal will try its best to give the parties details of its calculations. The *Curtis* case (above) made it clear that a Tribunal's decision must be supported by some workings out, but precise arithmetical calculations are not possible in all cases.

There are many properties where the deductions and allowances are of such proportions that a Tribunal must simply take a view as to how much a rent would have to be reduced in order to obtain a tenant. This may not be the same as the sum total of the Statutory deductions/allowances.

10. If the Tribunal considers that the demand for similar properties in the locality is substantially greater than the supply then a deduction has to be made in accordance with Section 70(2) Rent Act 1977. This is the so-called “scarcity factor”. The Tribunal is obliged to look at scarcity in terms of people wanting regulated tenancies. However the reality is that no new regulated tenancies are created nowadays and scarcity is therefore considered using the types of tenancy currently in use.
11. The word “locality” in Section 70(2) has a different meaning to that in Section 70(1). In the case of *Metropolitan Property Holdings Limited v Finegold* [1975] 1 WLR 349 it was decided that the “locality” for this purpose should be a really large area. A Tribunal must define the extent of that “locality” when reaching its decision.
12. In determining scarcity, Tribunals can look at local authority and housing association waiting lists but only to the extent that people on such lists are likely to be genuine seekers of the type of private rented accommodation in question if the rent were to exclude the scarcity element.
13. The Tribunal must apply the Rent Acts (Maximum Fair Rent) Order 1999 – known as the “capping” provision – unless there is an exemption.

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.