



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

Case reference : **BIR/47UB/F77/2020/0036**

Property : **6 The Close
Hunnington
Halesowen
West Midlands
B62 0JP**

Applicant : **Northumberland and Durham Property
Trust**

Representative : **Grainger PLC**

Respondent : **Mr M Daly**

Representative : **None**

Type of application : **Application under Section 70 of the Rent Act
1977 by the Applicant against the rent
assessed for the property by the Rent Officer**

Tribunal members : **Mr G S Freckelton FRICS (Chairman)
Mrs K Bentley**

Venue : **Neither party requested a hearing**

**Date of original
decision** : **9 March 2021**

Date Reasons Issued : **24 March 2021**

DETAILED REASONS

BACKGROUND

1. In October 2020, the Applicant Landlord applied to the Rent Officer for registration of a fair rent of £166.75 per week for the property 6 The Close, Hunnington, Halesowen, West Midlands, B62 0JP. The rent payable at the time of the application was stated as being £145.00.
2. The rent was previously registered at this figure with effect from 3rd December 2018 following a registration by the Rent Officer.
3. The Rent Officer registered a rental of £152.00 per week with effect from 3rd December 2020.
4. By letter dated 3rd December 2020, the Applicant objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. The Tribunal made a determination of the rent payable on 9th March 2021 and these Detailed Reasons are given in response to a request for same by the Applicant.

INSPECTION

6. Due to the COVID-19 pandemic and to comply with the revised Tribunal Regulations the Tribunal was unable to carry out an inspection of the property. The Tribunal considered whether an external 'drive by' inspection was necessary but considered that it had enough information to proceed with the determination without such an inspection.

ACCOMMODATION

7. Based on the information provided by the parties and the Rent Officer the Tribunal understands that the property comprises of a semi-detached house.
8. The accommodation is understood to comprise entrance hall, lounge, dining room and kitchen on the ground floor together with a W.C. On the first floor the landing leads to four bedrooms and bathroom. There is gas fired central heating. The Tribunal understands that the property is double glazed. Externally there are gardens to the front and rear. There is no off street parking.

EVIDENCE

9. The Tribunal received written representations from the Applicant which were copied to the Respondent.
10. Neither party requested a hearing and the matter was therefore dealt with by a paper determination.
11. In its representations the Applicant detailed two properties which it submitted confirmed the Applicant's opinion that the open market rent was £190.00 per week and that the rent requested of £167.75 per week was reasonable making an allowance of £15.00 per week to reflect the fact that properties offered on the open market would benefit from a modernised bathroom, modernised kitchen and off-street parking. The Tribunal experienced some difficulty in reconciling the calculation of £190.00 minus £15.00 equalling £167.75 but determined that this was not a matter requiring its further consideration.

12. In particular the Applicant referred to:

- I. Beaumont Road, Halesowen – a four-bedroom semi-detached house marketed at £196.00 per week.
- II. Mincing Lane, Rowley Regis – a four-bedroom semi-detached house marketed at £190.00 per week.

THE LAW

13. 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.
14. 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

15. In the first instance, the Tribunal determined what rent the Applicant 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 open market lettings. It did this by having regard to the Tribunal's own general knowledge of market rent levels in the area of the West Midlands.
16. Having taken the various matters into consideration it determined that the open market value of the property in good condition would be the sum of £195.00 per week.
17. However, the actual property is understood not to be in the condition considered usual for a modern letting at a market rent. Therefore, it was first necessary to adjust the hypothetical rent of £195.00 per week to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as described by the parties and the Rent Officer (disregarding the effect of any disrepair or other defects attributable to the tenant or any predecessor in title).
18. The Tribunal determined that the following weekly deductions were appropriate:

| | |
|--------------------------------|--------------|
| a) Modernised kitchen | 5.00 |
| b) Modernised bathroom | 5.00 |
| c) Lack of parking | 6.00 |
| d) Carpets and curtains | 10.00 |
| e) White goods | 7.00 |
| f) <u>Decorating liability</u> | <u>10.00</u> |
| Total | £43.00 |

19. The Tribunal then considered the question of scarcity. This is done by considering whether the number of persons genuinely seeking to become tenants of similar properties in the wider area of the West Midlands 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. In this case the Tribunal, having carried out appropriate research, is satisfied that it is not appropriate to make a deduction for scarcity. This leaves a fair rent for the subject property of £152.00 per week (£195.00 – £43.00).
22. The Section 70 fair rent determined by the Tribunal is below the level of the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly the rent is therefore determined at £152.00 per week.

DECISION

23. The fair rent determined by the Tribunal for the purposes of Section 70 was accordingly £152.00 per week.

APPEAL

24. If either of the parties is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the upper Tribunal (Lands Chamber), **on a point of law only**. Any such application must be received within 28 days after these written reasons have been sent to them (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

Graham Freckelton FRICS
Chairman
First-tier Tribunal Property Chamber (Residential Property)