



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

Case reference : **BIR/00FN/F77/2021/0046**

Property : **4 Thurnby Lane
Stoughton
Leicester
LE2 2FP**

Applicant : **Bradford Property Trust Limited**

Representative : **Grainger Residential Property Management**

Respondent : **Mr B T Seaton**

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)
Tribunal Judge P Ellis**

Venue : **Neither party requested a hearing**

**Date of original
decision** : **17th February 2022**

Date Reasons Issued : **1st March 2022**

DETAILED REASONS

BACKGROUND

1. On 22nd September 2021, the Applicant Landlord applied to the Rent Officer for registration of a fair rent of £546.00 per month for the property 4 Thurnby Lane, Stoughton, Leicester, LE2 2FP. The rent payable at the time of the application was stated as being £455.00 per month.
2. The rent was previously registered at a rental of £105.00 per week with effect from 18th December 2019 following a registration by the Rent Officer.
3. The Rent Officer registered a rental of £110.00 per week with effect from 18th December 2021.
4. By letter dated 13th December 2021, 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 17th February 2022 and these Detailed Reasons are given in response to a request for same by the Applicant.

INSPECTION

6. The Tribunal carried out an inspection of the property in the presence of the Respondent tenant and found the property to comprise of a semi-detached house located in an attractive semi-rural location on the outskirts of Leicester.
7. The accommodation comprises small hallway with stairs off to the first floor, two living rooms and small kitchen with painted brick walls and pantry off. There is a cupboard off below the stairs. On the first floor the landing (with loft access off) leads to one double bedroom, one large single bedroom and bathroom being fitted with a bath, wash hand basin and low-level W.C.
8. There is an airing cupboard off the single bedroom having a loose lagging jacket and an electric storage heater fitted in the rear living room. The house has full UPVC double glazing, including external doors. The Tribunal understands that this was fitted in 2004. There is no central heating.
9. Outside there are gardens to the front and side and brick-built single garage with up and over door. There is an outside W.C.
10. The Tribunal noted that the property was in need of extensive modernisation. The Tribunal understands that when the Respondent moved in there was an old 'Belfast' style sink which the Respondent had replaced many years previously. There were no fitted units in the kitchen, no central heating and the bathroom required refurbishment.

EVIDENCE

11. The Tribunal received written representations from both the Applicant and the Respondent which were copied to the other party.
12. Neither party requested a hearing and the matter was therefore dealt with by a paper determination.

THE APPLICANT'S SUBMISSIONS

13. The Applicant submitted that the property was in fair condition given its age and type although it acknowledged that it was not equivalent to modern standards.
14. The Applicant further submitted that the proposed rent of £126.00 per week was, in its opinion an accurate assessment of the rental value of the property. In arriving at this assessment, it considered that the Market Rent would be £231.00 per week. It had adjusted this figure as follows:

Modernised Bathroom	15.00
Modernised Kitchen	15.00
Gas central heating	15.00
Carpets & Curtains	10.00
<u>Whitegoods</u>	<u>10.00</u>
Total	£65.00

15. Based on the above, the Applicant submitted that the proposed rent of £126.00 per week was still £40.00 per week cheaper than a similar market tenancy.
16. To determine a Market Rental of £231.00 per week the Applicant referred in particular to:
 - 1) Spencerfield Lane, Leicester – a three-bedroom semi-detached house with garage, gas central heating, double glazing laminate floors throughout, modern kitchen and bathroom. The property was let at £271.00 per week.
 - 2) The Dell, St Denys Road, Leicester – a three bedroom semi detached house with parking space, gas central heating, double glazing, whitegoods and carpets throughout. The property was let at £231.00 per week.

THE RESPONDENT'S SUBMISSIONS

17. The Respondent submitted that the property was very much in the same condition as it was in 1962 when his parents moved into it. Since then, only the most essential works had been carried out. There was no gas in the property and the electrical fuse box still had asbestos in its mounting.
18. The Respondent further submitted that there was only one storage heater in the property, that the loft was only partly insulated and that neither of the external doors had been fitted properly.
19. The Respondent also submitted that the two comparables provided by the Applicant were for properties with contemporary high-end specification which bore no resemblance to the subject property. The proposed increase would represent a rise of 20% despite the fact that no improvements had been carried out.

THE LAW

20. 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.

21. 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

22. 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 Leicestershire.

23. 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 £185.00 per week.

24. However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore, it was first necessary to adjust the hypothetical rent of £185.00 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).

25. The Tribunal determined that the following weekly deductions were appropriate:

a) Central Heating	20.00
b) Modernised kitchen	15.00
c) Modernised bathroom	9.00
d) Carpets and curtains	11.00
e) White goods	10.00
f) <u>Decorating liability</u>	<u>10.00</u>
Total	£75.00

26. 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.

27. 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.

28. 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 £110.00 per week (£185.00 – £75.00).

29. 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 £110.00 per week.

DECISION

30. The fair rent determined by the Tribunal for the purposes of Section 70 was accordingly £110.00 per week.

APPEAL

31. 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)