



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

**Case Reference** : BIR/00CT/F77/2021/0043

**Property** : 28 Onslow Crescent, Solihull, West Midlands, B92 8RH

**Applicant** : Northumberland & Durham Property Trust Ltd.

**Representative** : Grainger plc

**Respondent** : Mr P.Bailey

**Type of Application** : Appeal against the Rent Officer's Decision of Fair Rent under s.70 of the Rent Act 1977

**Tribunal Members** : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS  
Mr W. Jones FRICS

**Date and Venue of Hearing** : Not Applicable, paper determination

**Date of Decision** : 14<sup>th</sup> February 2022

**Date Reasons issued** : 24<sup>th</sup> March 2022

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**DECISION**

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- 1 The Fair Rent is determined at £656.50 (Six Hundred and Fifty Six Pounds Fifty Pence) per calendar month from 14<sup>th</sup> February 2022.

## REASONS

### Introduction

- 2 Mr Bailey holds a protected tenancy of 28 Onslow Crescent, Solihull, West Midlands, B92 8RH. The rent had previously been registered by the Rent Officer at £575.00 per month on 11<sup>th</sup> November 2019. On 22<sup>nd</sup> September 2021 the landlord applied for a rent increase to £661.25 per calendar month and on 3<sup>rd</sup> November 2021 the Rent Officer registered a new rent of £605.00 per month to take effect from 17<sup>th</sup> December 2021.
- 3 The landlord appealed against the Decision by email to the Valuation Office Agency on 2<sup>nd</sup> December 2019 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 14<sup>th</sup> February 2022 determining a Fair Rent of £656.50 per month from that date and the Decision papers were sent to the parties.
- 4 The tenant requested Reasons by email to the Tribunal on 21<sup>st</sup> February 2022 which are the subject of this document.

### The Law

- 5 Mr Bailey is a protected tenant as acknowledged by the landlord. The Tribunal had not been provided with a copy of the tenancy agreement but understood from the application for fair rent completed by the landlord that the property had been let unfurnished, the landlord responsible for repairs to the structure and exterior and the tenant for internal repair and decoration in accordance with s.11 of the Landlord & Tenant Act 1985.
- 6 Accordingly, the rent was to be determined under s.70 of the Rent Act 1977.
- 7 S.70(1) states that in determining a fair rent, regard has to be had to all the circumstances of the tenancy (other than personal circumstances) including the age, character, locality and state of repair of the house, whether the property is let furnished and whether a premium had been paid or would be required to renew, continue or assign the tenancy.
- 8 s.70(2) adds a further qualification that it is assumed that the number of parties seeking to become tenants of similar houses in the locality on the terms of the tenancy (other than the rent) is not substantially greater than the number of houses available to let on such terms. This is usually referred to as 'scarcity' and the Court of Appeal held in *Spath Holme Ltd. v Chairman of the Greater Manchester Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 that under normal circumstances the fair rent is the market rent discounted for scarcity. The Court also held that assured tenancy rents could be considered comparable to market rents.
- 9 s.70(3) requires the valuation to disregard any disrepair due to a tenant's failure to comply with the terms of the tenancy and any improvements carried out by the tenant or their predecessor in title.

## **Facts Found**

- 10 The Tribunal inspected the property on 14<sup>th</sup> February 2022 and found it in fair condition.
- 11 It is a traditional 1930s semi-detached house in a pleasant residential part of Solihull within easy reach of facilities. The house is two storey brick and tile construction with an entrance hall, two reception rooms, kitchen and small utility on the ground floor and a landing, three bedrooms and bathroom on the first floor. There are front and rear gardens and space to park a car on the drive. The house has central heating and double glazing.
- 12 The tenant had improved the property by installing the central heating with radiators, although the landlord has since replaced the boiler. The tenant also provided the carpets, curtains and white goods, all of which are tenant improvements to be disregarded from the valuation.

## **Submissions**

- 13 Neither party requested a Hearing.
- 14 The landlord's agent sent a written submission describing the house and referred to two properties considered comparable; a 1930s 3 bedroom semi-detached house in Brookvale Road, Solihull with double glazing, central heating, extended kitchen, front and rear gardens and attached garage advertised at £1,000 per month and a 1930s 3 bedroom semi-detached house in Old Lode Lane, Solihull, advertised at £1,095 per month with double glazing, gas-fired central heating, spacious lounge - dining room, sun lounge to the garden, fitted kitchen, bathroom with separate shower, new carpets and garage.

Using these properties as points of reference, they submitted that the market rental value of the subject house to be at least £1,000 per month had it been offered with the same facilities as the comparables. However, to allow for the lack of amenities, they made the following deductions from the rental value of the subject property:

1	modernised kitchen	£50
2	modernised bathroom	£25
3	downstairs wc	£10
4	utility	£10
5	carpets and curtains	£15
6	white goods	£15

They then deducted £100 per month for general tenant improvements and obligations under the tenancy agreement, i.e. a total deduction of £225 per month. £1,000 less £225.00 is £775.00. Even on this basis, the asking rent of £661.25 per month in their notice was still substantially less than the £775.00 per month derived from market evidence.

- 15 The tenant wrote to the Tribunal advising that he had improved the bathroom, paid for the central heating and provided the carpets, curtains and white goods.

## **Decision**

- 16 To assess the Fair Rent the Tribunal need to assess the rental value of the house in good condition as a starting point, assuming it had been well maintained and modernised with central heating, reasonable kitchen units and a bathroom suite in fair condition, fully equipped with carpets and curtains and ready to let in the open market. Based on the comparables provided and the Tribunal's own general knowledge of values in the area, the Tribunal determined the theoretical market value at £1,000 per month.
- 17 However, the property had not been let in that condition. The Tribunal agreed with the landlord's suggested deductions for lack of facilities but increased the figure for lack of carpets and curtains to £25 per month and made a further deductions of £50 for lack of central heating as the original boiler and radiators had been provided by the tenant, £10 for wardrobes fitted by the tenant and £50 for renovating the garden. The deductions for lack of amenity were therefore £245.00 per month.
- 18 In summary, £1,000.00 less £245.00 left £755.00 per month.
- 19 The Tribunal considered the question of scarcity in s.70(2) of the Rent Act 1977 and found that the number of potential tenants looking for accommodation of this type in the area exceeded the number of units available. The Tribunal therefore deducted 10% for 'scarcity' to leave £679.50.
- 20 However, The Rent Acts (Maximum Fair Rent) Order 1999 capped the increase to £656.50 which was the maximum that could have been registered based on RPI increase plus 5% since the last registration.
- 21 There was no service charge and the rent was not registered as variable.
- 22 Accordingly, the Tribunal determined the Fair Rent at £656.50 per calendar month with effect from the date of decision 14<sup>th</sup> February 2022.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman

## **Appeal**

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after these reasons have been sent to the parties under Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.