



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

**Case reference** : **CAM/OOMC/F77/2022/0009**

**HMCTS code** : **A:BTMMREMOTE**

**Property** : **9 Jesse Terrace, Reading, RG1 7RG**

**Applicant (Landlord)** : **Northumberland and Durham  
Property Trust Ltd C/O Grainger  
Residential Management Limited**

**Respondent (Tenant)** : **Alan Stevens**

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

**Tribunal members** : **Peter Roberts FRICS CEnv**

**Date of Determination** : **25 August 2022**

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**DECISION**

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**Description of hearing**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a telephone hearing described above as A:BTMMREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a fair rent of £225 per week effective from 25 August 2022.**

## **Reasons**

### **Background**

1. On 3 March 2022 the Landlord made an application to register the rent of the Property at £3,191.82 per quarter.
2. The Rent Officer registered a Fair Rent of £225 per week (i.e., £2,925 per quarter) on 28 April 2022 effective from 27 April 2022. This was in lieu of the previous registered rent of £213.50 per week (£2,775.50 per quarter) which was registered on 14 May 2020 and effective from 27 May 2020.
3. The Landlord's agent objected by way of a letter which was received by the Rent Officer on 10 May 2022, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 23 May 2022, inviting the parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider. The Tribunal also advised the Parties that a telephone hearing would be held at 2PM on 8 August 2022.

### **The Property**

5. The Tribunal inspected the Property on 8 August 2022. The inspection was attended by the Tenant and Ms Stevens who the Tribunal understands is the Tenant's daughter. Neither the Landlord or their representative attended the inspection.
6. The Property comprises a period mid terraced property of brick and tile construction providing accommodation at ground and first floor level together with an enclosed garden to the rear. There is no garage or allocated car parking.
7. The ground floor comprises a hallway leading to lounge to the front of the property and a further lounge at the rear and a set of steps leading down into the basement area which provides a kitchen, a further lounge and a utility room. There is a bathroom and WC on the first floor, two bedrooms on the second floor and a further two bedrooms within the roof space.
8. The Landlord has installed central heating and double glazed timber framed windows. However, the Tenant has provided the floor coverings, curtains and white goods.

9. As a general comment, the property would benefit from refurbishment and modernisation. In this regard, the fittings are tired and dated. Furthermore, there is evidence of penetrating and/or rising damp particularly in the basement and the Tribunal understands that extensive works are planned which may require temporary vacation of the property.
10. The Tribunal notes that Ms Wakeline (the Rent Officer) advised in her email dated 4 April 2022 that:

“I have been to 9 Jesse Terrace on many occasions over the years and know the property very well.”
11. The Tribunal has therefore assumed that the Rent Officer was fully aware of the Property when deciding upon the rent to be registered.
12. The Property is entered in the Council Tax List as Band E. However, this assessment assumes that the Property is in repair.
13. The Tribunal notes that the Property benefits from an Energy Performance Certificate dated 15 April 2019. This certificate states a total floor area of 193 sqm and assesses the energy rating as C.

### **The Law**

14. The relevant law is set out in section 70 of the Rent Act 1977 (the Act) and The Rent Acts (Maximum Fair Rent) Order 1999 (the Order).
15. Section 70 (1) of The Act provides that in assessing the rent:

*“regard shall be had to all the circumstances (other than personal circumstances) and in particular to—*

  - i. the age, character, locality and state of repair of the dwelling-house,*
  - ii. if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture and*
  - iii. any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.”*
16. Section 70 (2) of the Act provides that

*“...there shall be disregarded*

  - i. any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;*
  - ii. 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*

- iii. *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.*
- 17. In addition, section 70 (2) of The Act requires the Tribunal to assume:
 

*“that the number of persons seeking to become tenants of similar dwelling-houses 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 dwelling-houses in the locality which are available for letting on such terms.”*
- 18. This latter provision requires the Tribunal to assume that the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent; in effect, if such scarcity exists, the Tribunal is to adjust the rental figure so that the fair rent is not affected by it.
- 19. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 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 are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).”*
- 20. In considering scarcity under section 70 (2) the Tribunal recognised that:
  - (a) *“there are considerable variations in the level of scarcity in different parts of the country and that there is no general guidance or “rule of thumb” to indicate what adjustment should be made; the Tribunal therefore considers the case on its merits; (b)*
  - (b) *terms relating to rent are to be excluded. A lack of demand at a particular rent is not necessarily evidence of no scarcity; it may be evidence that the prospective tenants are not prepared to pay that particular rent.”*
- 21. Fair rents are subject to a capping procedure under the Rent Acts (Maximum Fair Rent) Order 1999 which limits increases by a formula based on the proportional increase in the Retail Price Index since the previous registration.

## **Representations – Tenant**

22. The Tenant attended the inspection and the Hearing.
23. The Tenant's representations can be summarised as follows:
  - The Landlord has not carried out any improvements to the Property
  - The Tenant has limited financial resources
  - There is no justification for any rent increase

### **Representations – Landlord**

24. The Landlord did not attend the inspection and, did not appear at the Hearing. In addition, the Landlord has not submitted any representations.
25. It is therefore the case that, whilst the Landlord objected to the registered rent and thereby triggered these proceedings, no evidence or explanation as their reasoning for objecting has been provided.

### **Determination**

26. The first step is to determine the rent which a landlord could reasonably expect to obtain for the Property in the open market if it were let today in the condition and on the terms now usual for open market lettings. The rent currently paid is not relevant to this exercise. Notwithstanding this, the Tribunal would point out that rents have increased over recent months.
27. The Tribunal notes and understands the Tenants comments in respect of the lack of works undertaken to the Property by the Landlord. In this context, the Tribunal is required to assume that both the Tenant and the Landlord have fulfilled their responsibilities in respect of repair, decoration and maintenance for the purposes of assessing the rental value.
28. However, the Tribunal is able to take account of outstanding defects and other matters that have not arisen as a result of a lack of repair.
29. Neither of the Parties have provided any evidence of asking or achieved rents. It is therefore necessary for the Tribunal to make its own enquires and exercise its judgement.
30. On the assumption that the Property was fully refurbished and fitted to modern standards/requirements including full heating, curtains, carpets, mechanical ventilation, insulation, new kitchen and bathroom fixtures, all building defects addressed and redecorated throughout, the Property would be highly attractive in the market.
31. However, the Property requires significant modernisation and refurbishment. In addition, the carpets, curtains and white goods belong to the Tenant. It is therefore the case that it would only appeal to a very limited number of

prospective occupiers such that a significant discount in rent would be required to secure a tenant in the absence of a complete refurbishment.

32. In addition, an incoming Tenant would note the existence of damp in the property which appears to be the result of a building defect rather than disrepair and therefore falls to be taken into account.
33. In this regard, the Tribunal notes that properties available on the open market are of a much higher standard with modern fixture and fittings, carpets and curtains and fully fitted kitchens. In the absence of information to the contrary, none of these properties require significant work to rectify building defects.
34. In light of this, the Tribunal has assessed an “adjusted” rent of £250 per week.
35. The Tribunal has then considered whether there should be an adjustment for “scarcity” and decided that a 10% allowance is warranted.
36. The “uncapped” Fair Rent is therefore £225.00 per week.
37. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent, details of which are attached to the decision notice, or the Fair Rent decided by the Tribunal whichever is the lower.
38. Once RPI is applied to the current passing rent in accordance with the provisions of the Order, the capped rent is £261.50 per week. This is higher than the Fair Rent assessed by the Tribunal.
39. Therefore, the Fair Rent assessed by the tribunal of **£225.00 per week** (i.e., £2,925.00 per quarter) is to be registered.

**Name:** Peter Roberts FRICS CEnv

**Date:** 25 August 2022

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).