



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

**Case reference** : **CAM/38UF/F77/2022/0012**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **194 Burwell Drive, Witney, OX28  
5NB**

**Applicant (Tenant)** : **Mr Fisher**

**Respondent (Landlord)** : **A2Dominion Group**

**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 paper hearing described above as P:PAPERREMOTE. 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 £188.50 per week effective from 25 August 2022.**

## **Reasons**

### **Background**

1. On 18 February 2022 the Landlord made an application to register the rent of the Property at £139.67 per week.
2. The Rent Officer registered a Fair Rent of £178 per week on 16 May 2022 effective from 16 May 2022. This was in lieu of the previous registered rent of £153.50 per week which was registered on 9 December 2019 and effective from 9 December 2019.
3. The Tenant objected by way of a letter which was received by the Rent Officer on 31 May 2022, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 13 June 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 Property**

5. The Tribunal inspected the Property on 8 August 2022. The inspection was attended by the Tenant and Ms Rowlands as representative of the Landlord.
6. The Property comprises a 1970s semi-detached property of brick and tile construction providing accommodation at ground and first floor level together with an enclosed garden to the rear, an open garden to the front and a garage to the side.
7. The ground floor comprises a hallway leading to a lounge to the rear of the property, a dining room at the front and a kitchen. There are three bedrooms and a bathroom on the first floor.
8. The Property benefits from central heating and UPVC double glazing which belongs to the Landlord as part of the structure. The Tenant has provided carpets, curtains and the white goods. The Tenant has also replastered and changed some doors. There is also a garden shed which belongs to the Tenant.
9. The Tenant has kept the Property in excellent condition and no disrepair or defects were noted or brought to the Tribunal's attention during the inspection by either the Tenant or the Landlord's representative.
10. The Tribunal was advised that, as far as the Tenant could recall, the Rent Officer has not inspected the Property.

11. The Property is entered in the Council Tax List as Band C.
12. The Tribunal notes that the Property does not benefit from an Energy Performance Certificate.

### **The Law**

13. 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).
14. 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.”*
15. 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.”*
16. 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.”*
17. 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.

18. 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).”*

19. 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.”*

20. Section 71 (1) of the Act provides that the registration of the rent takes effect from the date that the Tribunal makes its decision.

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 increase in the Retail Price Index since the previous registration.

### **Representations – Tenant**

22. The Tenant was of the opinion that the *“...the increase of 40% to be quite excessive... ...I understand that there are rent increases, but I would please ask you to re-consider the amount on this occasion”*

### **Representations – Landlord**

23. The Tribunal understands that the Landlord wishes the rent to be registered but has a policy of charging the Tenant less than the registered rent.

### **Determination**

24. 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 and/or registered is not relevant to this exercise.

25. Neither of the Parties have provided any evidence of asking or achieved rents. It is therefore necessary for the Tribunal to make its own enquiries and exercise its judgement.
26. The Tribunal noted that there is an end-terraced two bedroom property in Burwell Meadow available for let at an asking rent of £1,050 per month. The letting details explain that it will be re-decorated and is provided with white goods. The Tribunal has noted that carpets are included.
27. The Tribunal is also aware of other properties further afield which have been achieving rents in the region of £1,150 to £1,500 per month. It has been necessary to consider these and make appropriate adjustments on account of accommodation, size, configuration and location.
28. On this basis, the Tribunal is of the opinion that the Property would be likely to achieve a rental in the region of £276.92 per week if it was let as it actually exists. However, it is necessary to strip out the value of the tenant's fixtures and fittings and consider an adjustment for "scarcity".
29. Having taken all these matters into account, the Tribunal considers the "uncapped" Fair Rent to be £195.00 per week.
30. 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.
31. The capped rent is £188.50 per week. This is lower than the Fair Rent assessed by the Tribunal.
32. Therefore, the Fair Rent assessed by the Tribunal of **£188.50 per week** 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).