



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

Case reference : **CAM/00KC/F77/2022/0018**

HMCTS code : **P:PAPERREMOTE**

Property : **2 Walgrave Road Dunstable,
Bedfordshire LU5 4NX**

Applicant (Tenant) : **Mr M McGill**

Respondent (Landlord) : **Dorrington Housing Limited**

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

Tribunal members : **Mary Hardman FRICS IRRV(Hons)**

Date of decision : **29 September 2022**

DECISION

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 documents that I was referred to are as submitted by the Applicant and the Respondent. I have noted the contents and my decision is below.

Decision

The tribunal determined a fair rent of £178.50 per week

Reasons

Background

1. On 15 March 2022 the landlord made an application to register the rent of the property at £174 per week.
2. On 7 July 2022 the Rent Officer registered a Fair Rent of £181.50 per week with effect from 14 August 2022. This was in lieu of the previous registered rent of £151 per week from 14 August 2020 . This was the capped rent . The uncapped rent being £200 per week.
3. The Tenant objected, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 5 August 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. Reply forms, photographs, further details and submissions were provided by the parties.

The property

5. The tribunal inspected the property on 26 September 2022. The tenant, Mr McGill and his daughter in law Lisa McGill were present at the inspection.
6. The Property is a post war three bedroomed semi-detached house. It is of brick construction with a tiled roof.
7. The accommodation comprises a living room, kitchen and bathroom to the ground floor and three bedrooms to the first floor. The property has gas central heating and double glazing, although both are somewhat dated.
8. The tenant has replaced all kitchen units and provided all the white goods. Hot water pressure is very poor to the kitchen sink. The window to the kitchen requires repair, as does the front door.
9. The bathroom, which is on the ground floor is somewhat dated and the shower was installed by the tenant.
10. There is evidence of a historic leak from the tank in the loft on the first floor. There is a cracked ceiling in the boiler cupboard and a significant large bulge in the ceiling in the rear bedroom which requires remedying. There is also evidence of damp ingress to ceilings on the first floor.

11. All carpet and curtains were provided by the tenant as was the fire and fire surround in the living room.
12. There is parking to the front of the property, a small garden to the front of the property and a garden to the rear of the property.

The law

13. The relevant law is set out in section 70 of the 1977 Act and the MFR Order. We are to have regard to all the circumstances (other than personal circumstances) and in particular to the age, character, locality and state of repair of the Property. We are to disregard the effect on the rental value of any improvements carried out by the tenant (other than in pursuance of the terms of the tenancy). We are also required (by s.70(2)) 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, we are to adjust the rental figure so that the fair rent is not affected by it.
14. 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 confirmed that for the purposes of determining the market rent (before making any necessary adjustments), open market assured tenancy rents are usually appropriate comparables.
15. By section 72 of the 1977 Act, if the rent is determined by the tribunal, the registration of the rent takes effect from the date we make our decision.

Representations – landlord

16. In the written submission on behalf of the landlord, Savills provided details of the accommodation – although they stated there were two living rooms, and features of the property.
17. They stated that the landlord had carried out gutter and roof repairs in 2022.
18. They did not provide any evidence of comparable properties.

Representations – tenant

19. The tenant said that there had been no work done on the property in years. The heating was old and broken and it cost a fortune to heat the house as it was not possible to turn it off properly in the summer.
20. The windows were old and not insulated and there was a bulge in one of the bedroom ceilings which meant they were not comfortable using the room.

21. The front door did not close and is a security risk and the fencing was broken.
22. The fire in the living room did not work and the tap in the kitchen did not run.
23. All issues of disrepair were longstanding.
24. The tenant did not provide any evidence of comparable properties.

Determination

25. First, we need to determine the rent which the 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.
26. Neither party has supplied comparables. The Rent Officer determined an open market rent of £288 per week (£1250 per month) for a property of the standard normally let in the market, which accords with the opinion of the tribunal.
27. We then need to adjust this open market rent to reflect the condition of the property, to disregard the improvements made by the tenant and to allow for their internal repairing obligations.
28. The kitchen was replaced by the tenant. The tenant has supplied the white goods, all of the floor covering and the curtains as well as other items as noted above.
29. In addition, there are the items of disrepair which are the responsibility of the landlord as noted above, namely the front door and kitchen window; the large bulge to one of the rear bedroom ceilings; damp ingress; issues with the fencing. In addition, the bathroom is not to the standard that would be normal in a modern let. The heating and double glazing are dated.
30. For this the tribunal has made an adjustment of £90 to arrive at a rent before consideration of scarcity of £198.
31. We then considered whether there should be an adjustment for “scarcity” as referred to in paragraph 13 and decided that there should be an adjustment of 10%. This results in a rent of £178.50 per week (£178.20 rounded up to the nearest £0.50 as required) .
32. 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.

33. The capped rent is £184.50 per week. This is higher than the rent assessed by the Tribunal as set out above and therefore, the rent determined by the tribunal of **£178.50 per week** is to be registered.

Name: Mary Hardman FRICS IRRV(Hons) **Date:** 29 September 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).