



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

**Case Reference** : BIR/47UE/F77/2022/0027

**Property** : 4 Wakeman St., Worcester, WR3 8BQ

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

**Representative** : Grainger Residential Management Ltd.

**Respondent** : Mr P.Wright

**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 J. Arain

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

**Date of Decision** : 17 August 2022

**Date Reasons issued** : 5 October 2022

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**DECISION**

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- 1 The Fair Rent is determined at £360.00 (Three Hundred and Sixty Pounds) pcm from 17<sup>th</sup> August 2022.

## REASONS

### Introduction

- 2 Mr Wright holds a protected tenancy of 4 Wakeman St., Worcester, WR3 8BQ. The fair rent had previously been registered by the Rent Officer at £355.00 per month on 15<sup>th</sup> May 2020. On 11<sup>th</sup> March 2022 the landlord applied for a rent increase to £426.00 pcm and on 11<sup>th</sup> May 2022 the Rent Officer registered a new rent of £380.00 pcm to take effect from 11<sup>th</sup> June 2022.
- 3 The landlord appealed against the Decision by letter to the Valuation Office Agency dated 7<sup>th</sup> June 2022 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 17<sup>th</sup> August 2022 determining a Fair Rent of £360.00 pcm from that date and the Decision papers were sent to the parties.
- 4 The Landlord's agents requested Reasons by email to the Tribunal received 2<sup>nd</sup> September 2022 which are the subject of this document.

### The Law

- 5 Mr Wright 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, with the landlord responsible for repairs to the structure and exterior and the tenant responsible 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 17<sup>th</sup> August and found it to be in basic, unmodernised, poor condition. It is a traditional two storey terraced house a mile north of Worcester city centre. The accommodation comprises two reception rooms in the main house and a kitchen, lobby and two store in the wing at ground floor level. The first floor has a small landing and two bedrooms in the main house with access through the back bedroom to a bathroom in the wing.
- 11 The house is two storey brick and slate construction. It has double glazing but is otherwise in original condition without central heating. The living rooms are only heated by old gas fires.
- 12 The house is in very poor condition, even disregarding the tenant's lack of decoration. The kitchen units are extremely old and worn, there are unplastered walls, there is rising damp in the kitchen and store and a damp stain on the back bedroom ceiling. It is not clear from our valuation inspection whether the water ingress is due to leaking flashings or the poor condition of the slates which are original and due for replacement. Parts of the house appear to have been refurbished in the late 1960s or early 70s evidenced by an old avocado coloured bathroom suite, but the whole house needs refurbishment to bring it to current standards.

## Submissions

- 13 Neither party requested a Hearing.
- 14 The landlord's agents sent written submissions describing the house and referring to the neighbouring house, No.6 Wakeman Street, which they considered comparable. It also had two bedrooms but had been refurbished. The asking rent was £850 pcm but it was not evidenced by any letting details from agents or other sources.

Using this datum, they submitted that the market rent of the subject house in good condition would be the same, but deducted various amounts to reflect its comparable lack of facilities:

1	modernised kitchen and utility	£ 50 pcm
2	modernised bathroom	£ 25 pcm
3	gas fired central heating	£100 pcm
4	floor coverings	£ 15 pcm
5	white goods	£ 15 pcm

i.e. a deduction of £205 per month.

They also deducted £100 pcm for unspecified tenant improvements.

- 15 The tenant, Mr Wright, sent a written submission emphasising the poor condition of the house due to the damp problem and said that the adjoining house had been modernised to a high standard.

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## **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.
- 17 The Tribunal considered the rent of the neighbouring house to be high which reflected its condition, but assuming the subject house were in average condition by market standards we would expect it to achieve £700 pcm at the valuation date in this locality.
- 18 However, unfortunately the house is a long way from the standard expected by the current market which needs to be reflected in the rent. We did not attribute specific sums to particular items of disrepair but taking the whole into account, deducted £340 pcm for lack of condition and amenity to leave a net Fair Rent of £360 pcm.
- 19 The Tribunal considered the question of scarcity in s.70(2) of the Rent Act 1977 but made no deduction for this because we found that the number of potential tenants would be low due to the poor state of the house. It would be difficult to let the property in its present condition with no white goods, carpets or curtains and the problem of having to access the bathroom through the back bedroom.
- 20 The Rent Acts (Maximum Fair Rent) Order 1999 was of no effect as the Fair Rent was less than the maximum that could have been registered under the Order, confirmed by the calculation sheet sent with the Decision Notice.
- 21 There was no service charge and the rent was not registered as variable.
- 22 Accordingly, the Tribunal determined the Fair Rent at £360.00 pcm with effect from the date of its decision, 17<sup>th</sup> August 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.