



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

Case Reference : **MAN/00BU/F77/2021/0032**

Property : **9 Place Road, Broadheath, WA14
4HH**

Tenant : **Mrs Penelope Mellor**

Landlord : **BPT LTD**

Type of Application : **Rent Act 1977 – Section 70**

Tribunal Members : **Judge J White
Valuer Ms S Latham**

Venue: **Northern Residential Property
First-tier Tribunal, 1 floor,
Piccadilly Exchange, 2 Piccadilly
Plaza, Manchester, M1 4AH**

Determination : **6 September 2022**

Date of Reasons : **21 October 2022**

DECISION

Order

The Tribunal determines that the fair rent payable is £142.00 per week with effect from 6 September 2022.

Background

1. Since 1 April 1964, the Tenant holds under a weekly tenancy of 9 Place Road, Broadheath, WA14 4HH (the Property). The tenancy is governed by Part VI of the Rent Act 1977 (“the Act”). The last registered rent was £113 per week effective from 30 November 2018.
2. On 9 December 2020, the Landlord applied to the Rent officer for registration of a fair rent of £135.60 per week.
3. On 5 February 2021, the Rent Officer registered a rent of £118 per week, effective from 5 February 2021. This was the uncapped rent calculated as an open market rent of £170 less £52 adjustments.
4. The Landlord objected to the rent as registered and requested the Rent Officer to refer the matter to the First Tier Tribunal (Property Chamber) (“the Tribunal”), and so the fair rent to be registered in respect of the Property fell to be determined by the Tribunal. Neither party requested an oral hearing or an inspection. The Tenant informed the tribunal service that, that due to her age and health she did not want the Tribunal to inspect due to the risk of Covid

The Property

5. The Property is a good size 3 bedroomed terraced house circa 1800. On the ground floor is a living room and kitchen dining room, and vestibule. On the first floor there are 2 bedrooms and a bathroom. On the second floor there is the third bedroom. It is set back from the road with a small grassed area to the front and small garden to the rear.
6. The Property is partly furnished and does not have central heating.

The Law

7. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977 ("The Act"), section 70, has regard to all the circumstances, save for personal circumstances, including the age, location and state of repair of the property. Section 70 of the Act requires the tribunal to disregard the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property. In this way a landlord does not benefit by way of increased rent from any tenant's improvements and the tenant does not benefit from any defaults on his or her part that would otherwise have lowered the rental value of the property.
8. 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 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 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). A market rent is the rent of a similar property in a similar locality, age character and repair.

Reasons

9. The Landlord provided written submissions setting out that the proposed rent was £135.60. They state it is in a sought after location near good amenities and transport links. They recognised that it does not meet modern standards, though repairs were carried out when reported by the tenant. They described the condition as fair. They provided two comparables of similar properties both on the same street with almost identical characteristics. Both had been let for £276 per week. Both had been modernised with central heating and let with white goods and flooring. They calculated the starting point as £276 and deducted £20 each for modernised bathroom and kitchen, and £15 each for floor coverings/curtains, part furnished and central heating. They submit that

given these deductions amounting to £85, the proposed rent is still £55.40 cheaper than what could be achieved on the open market. They accept there is no scarcity. They asked to the Tribunal to consider the caselaw as set out above.

10. The Tenant did not provide any written or oral submissions.
11. The Tribunal determined what rent the Landlord could reasonably be expected to obtain for the Property in the open market if it were let today in the condition that was considered usual for such an open market letting. The comparables provided by the Landlord, being on the same street and same type provided persuasive evidence of the market rent, taking into account the age, character and locality of the Property. We accepted, therefore, that the starting point was £276.
12. The Tribunal considered that the following adjustments should be made. No white goods carpets and curtains (£28), dated kitchen and bathroom (£40), part furnished (£15), and no central heating (£41.40). No central heating was a particular factor in today's market. This provided for £124.40 adjustments and the open market rent as £151.60.
13. The Tribunal does not consider that in the present-day market, there is any substantial scarcity element in the larger locality and accordingly no further deduction is made for scarcity.
14. The capped rent as set out in the Rent Acts (Maximum Fair Rent) Order 1999 is £142 per week, as calculated by the statutory formula below. This calculation is made on the date of the Tribunal determination and consequently is above the capped rent calculated by the Rent Officer. Currently the RPI is high.
15. As the capped rent is below the market rent of £151.60, these provisions apply. The fair rent, then is determined at £142 per week.

Signed: Judge J White

Date: X October 2022

MAXIMUM FAIR RENT CALCULATION

LATEST RPI 343.2
FIGURE x

PREVIOUS RPI 284.5
FIGURE y

X 343.2 Minus y 284.5 = (A) 58.7000

(A) 58.7000 divided by 284.5 = (B) 0.20633
y

First application for re-registration since 1 February 1999: YES/NO

If yes (B) plus 1.075 = (C)

If no (B) plus 1.05 = (C) 1.25633

Last registered rent* £113.00 Multiplied by £141.96
(C) =

*(exclusive of any variable service charge)

Rounded up to nearest 50 pence = £ 142

Variable service charge: No

£ 0

If YES add amount for services

MAXIMUM FAIR RENT = £ 142 Per week

Explanatory Note

1. The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
2. In summary, the formula provides for the maximum fair rent to be calculated by:
 - (a) increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
 - (b) adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).

A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B).

The result is rounded up to the nearest 50 pence.

3. For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Committee's fair rent determination was made.
4. The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.

RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.