



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

Case Reference : **MAN/00BN/F77/2021/0044**

Property : **5 Lansbury House, 76 Whalley Road, Manchester M16 8AH**

Tenant : **Mr R Knight**

Landlord : **Onward Homes**
:

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

Tribunal Members : **Judge J White**
Valuer S Wanderer

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

Determination : **15 August 2022**

Date of Reasons : **21 October 2022**

DECISION

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Order

The Tribunal determines that the fair rent payable is £114.86. per week, inclusive of £19.36 for services per month with effect from 15 August 2022.

Background

1. Since 10 May 2010, the Tenant holds under a weekly secure tenancy of 5 Lansbury House, 76 Whalley Road, Manchester M16 8AH (the Property). The tenancy is governed by Part VI of the Rent Act 1977 (“the Act”). The last registered rent was £95 inclusive of £17.01 for services per month effective from 13 September 2019. In addition, there was £7.35 for fuel charges.
2. On 15 September 2021, the Landlord applied to the Rent officer for registration of a fair rent of £87.69 per week.
3. On 4 November 2021, the Rent Officer registered a rent of £97 per week (inclusive of services of £19.36), effective the same day. There is an additional fuel charge of £8.37 per week. We were not provided with a copy of the calculations, though were provided with a list of rent comparators for 1 bedroomed self-contained purpose built flats in the same postcode. The rents ranged from £114.23 to £173.08 per week.
4. On 24 November 2021, the Tenant 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.

The Inspection

5. On 15 August 2022 the Tribunal attempted to inspect the Property. We could not gain access.
6. The Property is a 1 bedroom ground floor flat. The property is situated within a purpose-built block three-storey block set back from a residential tree lined road with communal car parking.

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 Tenant had submitted that the maximum rent increase should be subject to the maximum RPI of 5%. On 17 November 2021 the RPI was 4.8% in November and 4.7% in October, therefore the maximum should be £91 per week, though the fair rent should be £89 as he has not had a rent increase of more than £4 per week and his previous rent was £82.56. The Landlord did not provide submissions.
10. 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. We used our knowledge and expertise of market rents. We took into account the popularity of the area and location on a tree lined residential street, with

parking, in a relatively modern purpose built flats. We determined that the open market rent in good condition was £140 per week. We were not provided with any evidence of the internal condition of the Property and deducted £14 lack of white goods carpets and curtains, as would be usual for this type of tenancy.

11. This provided for an open market rent as £126. Adding in variable service charges provides a rent of £145.36.
12. 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.
13. As this is a fair rent, then the rent must be capped as set out in the Rent Acts (Maximum Fair Rent) Order 1999. This must be 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. The capped rent using the formula below, including RPI figures set each month is £95.50 . Adding in the variable service charges provides a capped rent of £114.86.
14. As the capped rent is below the market rent of £145.36, these provisions apply. The fair rent, then is determined at £114.86. per week.

Signed: Judge J White

Date: 21 October 2022

MAXIMUM FAIR RENT CALCULATION

LATEST FIGURE	x	RPI	340			
PREVIOUS FIGURE		RPI	291			
X	340	Minus y	291	= (A)	49.0000	

(A) divided by = (B)

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)

Last registered rent* Multiplied by (C) =

*(exclusive of any variable service charge)

Rounded up to nearest 50 pence =

Variable service charge: Yes £19.36

If YES add amount for services

MAXIMUM FAIR RENT = **Per**

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).
 - (c) 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).
 - (d) 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.