



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

**Case Reference** : **MAN/00BU/F77/2021/0014**

**Property** : **Apt C Oakleigh House, Sale, M33  
4PH**

**Tenant** : **Ms Jakki Goodman**

**Landlord** : **Grainger Pearl LTD**  
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**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**

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**DECISION**

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## **Order**

The Tribunal determines that the fair rent payable is £627.83 inclusive of £35.83 for services per month with effect from 6 September 2022.

## **Background**

1. Since 1 September 1973 , the Tenant holds under a monthly tenancy of Apt C Oakleigh House, Sale, M33 4PH (the Property). The tenancy is governed by Part VI of the Rent Act 1977 (“the Act”). The last registered rent was £610 inclusive of £133.07 for services per month effective from 1 April 2019
2. On 18 January 2021, the Landlord applied to the Rent officer for registration of a fair rent of £660.83 (inclusive of services of £35.83) per month.
3. On 15 March 2021, the Rent Officer registered a rent of £640 per month (inclusive of services of £35.83), effective from 1 April 2021. We were not provided with a copy of the calculations.
4. On 12 April 2021, 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.

## **The Inspection**

5. On 6 September 2022 the Tribunal inspected the Property. The Tenant was in attendance.
6. The Property is a good size 4 roomed ground floor flat in a Gothic mansion house circa 1870. The tenant chose to furnish the flat as a large and smaller living room, 2 bedrooms, a small kitchen and bathroom. The rooms are grand, with high ceilings, and original features. The kitchen was dated and there was dampness in the bathroom and small built in cupboard off the kitchen. The Property is set back from the road down a long drive in substantial communal grounds with car parking.

7. It has double glazing and central heating.
8. The Property was off a wide tree lined street, with detached houses set back from the road. It is reasonably close to local amenities and transport links.

### **The Law**

9. 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.
10. 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**

11. Neither party provided any written or oral submissions.
12. 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. Due to the unique nature of the property, assessing this was not

straightforward. We used our expertise, taking account of the attractive building and setting and balancing it with hard to heat rooms. It had high ceilings, draughty fireplaces, with outside uninsulated walls on 2 sides. The Property smelt musty and the Tenant had dehumidifiers and heaters in use. We determined that the open market rent in good condition was £850 per month.

13. The Tribunal considered that the following adjustments should be made. No white goods carpets and curtains (£85), dated kitchen and bathroom (£50) and minor repairs (£25). This provided for £160 adjustments and the open market rent as £690. Adding in variable service charges provides a rent of £725.83.
14. 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.
15. The capped rent as set out in the Rent Acts (Maximum Fair Rent) Order 1999 is £592 per month, 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. Adding in the variable service charges provides a capped rent of £627.83.
16. As the capped rent is below the market rent of £725.83, these provisions apply. The fair rent, then is determined at 627.83per month.

**Signed: Judge J White**

**Date: 21 October 2022**

#### MAXIMUM FAIR RENT CALCULATION

<b>LATEST FIGURE</b>	<b>x</b>	<b>RPI</b>	<input type="text" value="343.2"/>
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<b>PREVIOUS FIGURE</b>	<b>y</b>	<b>RPI</b>	<input type="text" value="288.2"/>
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X  Minus y  = (A)

(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 £35.83**

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.