



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

**Case reference** : **CAM/26UE/F77/2022/0026**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **175 Bullhead Road, Borehamwood,  
WD6 1RQ**

**Applicant (Tenant)** : **Mrs R Redwood**

**Respondent (Landlord)** : **Mountview Estates PLC**

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

**Tribunal members** : **Peter Roberts FRICS CEnv**

**Date of Determination** : **14 December 2022**

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**DECISION**

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**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 form of determination was a paper hearing described above as P:PAPERREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a fair rent of £900 per month effective from 14 December 2022.**

## **Reasons**

### **Background**

1. On 17 July 2022 the Landlord made an application to register the rent of the Property at £966 per month.
2. The Rent Officer registered a Fair Rent of £945 per month on 1 September 2022 effective from 10 October 2022. This was in lieu of the previous registered rent of £827.50 per month which was registered on 15 September 2020 and effective from 10 October 2020.
3. The Tenant objected by way of a letter submitted on her behalf by Mrs Hollick dated 13 September 2022 which was received by the Rent Officer on 16 September 2022, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 27 September 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.

### **The Property**

5. The Tribunal inspected the Property on 28 November 2022. The inspection was attended by the Tenant and Mrs Hollick as her representative. Neither the Landlord nor a representative were in attendance.
6. The Property comprises an early 20<sup>th</sup> century semi-detached property of brick and tile construction providing accommodation at ground and first floor level together with an enclosed garden to the rear, an open garden to the front and a garage to the side.
7. The ground floor comprises a hallway leading to a lounge located to the front of the property, kitchen and bathroom. There are two bedrooms located on the first floor.
8. The Tenant advised that the following items comprise tenant's improvements:
  - 1) Internal decoration including carpets and curtains
  - 2) Gas fire installed in the lounge
  - 3) All kitchen units and white goods (cooker, fridge freezer and washing machine)
  - 4) All bathroom units (i.e., bath, WC and sink) together with tiling

## 5) Central Heating

9. The Tenant advised that the Landlord had installed the UPVC double glazing and constructed the single garage.
10. The Tenant has kept the Property in good condition and no outstanding disrepair or defects were noted or brought to the Tribunal's attention.
11. The Property is entered in the Council Tax List in Band D.
12. The Tribunal notes that the EPC rating of the Property is D, as assessed on 23 November 2018, and that the stated floor area is 61 sqm.

## The Law

13. The relevant law is set out in section 70 of the Rent Act 1977 (the Act) and The Rent Acts (Maximum Fair Rent) Order 1999 (the Order).
14. Section 70 (1) of The Act provides that in assessing the rent:  
*“regard shall be had to all the circumstances (other than personal circumstances) and in particular to—*
  - i. *the age, character, locality and state of repair of the dwelling-house,*
  - ii. *if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture and*
  - iii. *any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.”*
15. Section 70 (2) of the Act provides that:  
*“...there shall be disregarded*
  - i. *any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;*
  - ii. *any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his*
  - iii. *if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.”*
16. In addition, section 70 (2) of The Act requires the Tribunal to assume:

*“that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.”*

17. This latter provision requires the Tribunal 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, the Tribunal is to adjust the rental figure so that the fair rent is not affected by it.

18. 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:

*(a) “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*

*(b) 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).”*

19. In considering scarcity under section 70 (2) the Tribunal recognised that:

*(a) “there are considerable variations in the level of scarcity in different parts of the country and that there is no general guidance or “rule of thumb” to indicate what adjustment should be made; the Tribunal therefore considers the case on its merits;*

*(b) terms relating to rent are to be excluded. A lack of demand at a particular rent is not necessarily evidence of no scarcity; it may be evidence that the prospective tenants are not prepared to pay that particular rent.”*

20. Section 71 (1) of the Act provides that the registration of the rent takes effect from the date that the Tribunal makes its decision.

21. Fair rents are subject to a capping procedure under the Rent Acts (Maximum Fair Rent) Order 1999 which limits increases by a formula based on the increase in the Retail Price Index since the previous registration.

22. Section 72 (1) (b) of the Act provides that the registration of a rent takes effect:

*“...if the rent is determined by the appropriate tribunal, from the date when the tribunal make their decision”*

## **Representations – Tenant**

23. Mrs Hollick raised various points in her written objection following a common theme:

- a) *“...I was absolutely shocked, that you have decided to increase her rent by £117.50. This increase is 14.19%*
- b) *How can you actually warrant this type of increase. Her pension has only gone up over the last two years by 5.5%.*
- c) *The amount of rent she has paid over this time [66 years] and what has been done over the years by the Landlords for me does not warrant this massive increase.*
- d) *My parents were the ones who put in the kitchen, bathroom, central heating. Have kept the house decorated.”*

24. Mrs Hollick also stated on the Reply Form in respect of repairs that:

*“All internal & external fixtures & fittings works, decorating, kitchen units, bathroom suite, wardrobes, central heating repairs, fencing, front driveway ws carried out by the family. Its only been about the last 10 years that we have asked the landlords to do any repairs.”*

25. Under “any other comments”, Mrs Hollick stated:

*“As daughter to Mrs L Redwood I think the increase is rather sharp seeing that it is way above inflation. Plus the amount of repairs that has been done by the Landlord, really is very little.”*

## **Representations – Landlord**

26. The Landlord did not submit any representations and did not attend the inspection despite being given the opportunity to do so.

## **Determination**

27. The first step is to determine the rent which a 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. The rent currently paid and/or registered is not relevant to this exercise.

28. Neither of the Parties have provided any evidence of asking or achieved rents. It is therefore necessary for the Tribunal to make its own enquiries and exercise its judgement.

29. It is notable that there are only five properties currently available to let within a half mile radius of the Property. It is also notable that, of these properties, there are two 3-bedroomed end of terraced/semi-detached houses being advertised at £2,000 pcm, one 2-bedroomed end of terraced house advertised at £1,600 pcm (stated to extend to 61 sqm) and a 1 bedroomed semi-detached bungalow advertised at £1,100 pcm. However, none of these properties are directly comparable to the Property.
30. Further afield (0.7 miles), there is a 2 double-bedroomed end of terrace property located within a cul-de-sac at 12 Buchanan Court providing 58.3 sqm floor space which is fitted to a modern standard and is currently being marketed at £1,500 pcm.
31. Having taken all these points into account including the relative locations, the Tribunal is of the opinion that the Property would be likely to achieve a rental in the region of £1,500 pcm if it was refurbished internally and fitted to modern standards/requirements.
32. However, it is necessary to discount this rent to account for the fact that, once the Tenant's improvements are disregarded and the lack of modernisation is taken into account, the Property would only appeal to a very limited number of prospective occupiers such that a significant discount in rent would be required.
33. The Tribunal notes that the Rent Officer assumed a starting rent of £1,400 pcm and deducted circa 35% on account of:  
*"... tenant's repair/decorating liability, the lack of white goods and no floor coverings, unmodernised kitchen and bathroom"*.
34. It appears from this statement that the Rent Officer had not made any deduction on account of the Tenant installing the kitchen and bathroom units together with the central heating. It would be expected that an increased allowance would have been applied had the Rent Officer been aware of this.
35. The Tribunal is satisfied that a 10% scarcity allowance is warranted having regard to the lack of availability of alternative properties providing similar accommodation to the Property.
36. Having taken all these matters into account, the Tribunal considers the "uncapped" Fair Rent to be £900 pcm.
37. 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 this Decision, or the Fair Rent decided by the Tribunal, whichever is the lower.
38. The capped rent is £1,049. This is higher than the Fair Rent assessed by the Tribunal.

39. Therefore, the Fair Rent assessed by the Tribunal of **£900 per month** is to be registered.

**Name:** Peter Roberts FRICS CEnv

**Date:** 14 December 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).