



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

Case Reference : **LON/00AX/F77/2023/0087**

Property : **21 Ancaster Crescent,
New Malden, KT3 6BD**

Applicant : **M.D. Lovegrove (Tenant)**

Representative : **None**

Respondent : **Grainger Finance Company Ltd.
(Landlord)**

Representative : **None**

Type of Application : **S.70 Rent Act 1977 – Determination
of a new fair rent**

Tribunal Member : **Mr N Martindale FRICS**

Date and venue of Meeting : **11 May 2023
10 Alfred Place, London WC1E 7LR**

Date of Decision : **11 May 2023**

REASONS FOR DECISION

Background

- 1 The landlord applied to the Rent Officer for registration of a fair rent of for the property. The rent registered as payable at the time of the application was stated by the landlord in their RR1 notice of increase as £954 pcm from March 2020.
- 2 The Tribunal, on production of reasons on request from the tenant, now notes that the landlord's statement is incorrect. The register actually shows the Fair rent at £930 pcm from March 2020 not as mis-stated by the landlord. Any rent paid in excess of the Registered Fair

Rent of £930 pcm from March 2020 until and including 10 May 2023, must be credited by the landlord to the tenant's rent account immediately and this action confirmed in writing to the tenant.

- 3 This correction downwards, to the starting Registered Fair rent from 2020, has an effect on the Maximum Fair Rent Cap multiplier at this Registration in 2023. The final capped Fair rent therefore drops.
- 4 Earlier in 2022, the Rent Officer registered an increased but capped fair rent of £1010 pcm. There were no services. By a letter received by the Tribunal a party objected to the new rent. The objection was referred to this Tribunal, for a fresh determination of the fair rent.

Inspection

- 5 The Tribunal did not inspect the Property owing to the restrictions imposed and arising from Covid 19 and current Tribunal working practices. The Property appears from Google Streetview (@July 2022), to be part of a pair of post war semi-detached houses, with plain tiled, hipped double pitched roof, part rendered part brick faced front elevation and plastic windows. The driveway is an unsealed garden area used for parking. It is located in a residential part of New Malden, suburban London there are no parking restrictions on road.
- 6 The Property is a post war house, appears to be of conventional construction and maintained to a functional basic standard only. Accommodation is of 3 rooms and bathroom/ WC to first floor and 2 rooms, kitchen and hallway to ground floor. It has central heating installed many years ago under a former tenancy. The landlord has recently installed double glazing.
- 7 The Tribunal made the assumption common in older established tenancies such as this one, that there were no carpets or curtains, or white goods included in the letting by the landlord. It also assumes and is reinforced in that view by the tenants representations that both kitchen and bathroom whilst functional, are a basic provision, only.

Evidence

- 8 Directions for the progression of the case were issued. The Tribunal received representations from the tenant but has no record of landlords representations. Neither party requested a hearing. The case was determined only on the papers.

Law

- 9 When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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.

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 emphasized

(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).

Decision

11 Here the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an unmodernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.

12 On the evidence of the tribunal's general knowledge of market rent levels in this location, the subject property if modernized and in good order would let on normal Assured Shorthold Tenancy (AST) terms, for £2,000 per calendar month.

13 The Tribunal makes allowance for the absence of carpet and curtains, for the lack of white goods, and ordinary but functional kitchen and bathroom. These adjustments total a £300 pcm deduction, producing a market rent of £1700 pw, prior to considering scarcity.

14 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was a substantial scarcity in the locality of Greater London and therefore makes a further deduction of 20% from the adjusted market rent to reflect this element. This deduction results in an uncapped rent of £1360 pcm.

- 15 The Tribunal is also required to calculate the Maximum Fair Rent Cap (MFRCap) which serves to limit the extent of increase in a fair rent on review. The cap is determined by a formula under statutory regulation, which whilst allowing for an element of inflation may serve to prevent excessive increases.
- 16 The Tribunal took the statement of the passing fair rent of £954 pcm in the landlord's RR1 notice to rent increase, at face value. In preparing these reasons the Tribunal notes now that the extant passing rent was actually registered at £930 pcm for the entire period and not at £954 pcm. A corrective credit of any excess charges (if shown to have been made) at what may have been £24 pcm for every month should be completed by the landlord and confirmed to the tenant in any event.
- 17 The cap as the date of the Tribunal's determination of 11 May 2023 also inevitably produces a slightly lower figure of £1,222 pcm with this lower starting point. These calculations were previously shown in ghte decision form and MFR based on the wrong starting rent. A corrected decision form and MFR calculation is therefore attached. This figure is a combination of the actual previously registered rent of £930 pcm being subject to the change in RPI between registration dates rounded up to the nearest 50p. There is no service charge element.
- 18 The calculation and Registered rent figure previously published in respect of this application is therefore withdrawn under Tribunal Rule 50. This new corrected figure attached is hereby substituted.

19 Rule 50: Clerical mistakes and accidental slips or omissions

The Tribunal may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction or any document produced by it, by—

(a) sending notification of the amended decision or direction, or a copy of the amended document, to each party; and

(b) making any necessary amendment to any information published in relation to the decision, direction or document.

Chairman N Martindale

Dated 26 June 2023