



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

**Case reference** : **CHI/00HB/F77/2023/0024**

**Property** : **Flat 2 Cabot Court, Braggs Lane, Old Market, Bristol BS2 0AX**

**Applicant (Landlord)** : **Brighter Places**

**Representative** : **None**

**Respondent (Tenant)** : **Mr M Stewart**

**Representative** : **None**

**Type of application** : **Section 70 of the Rent ACT 1977**

**Tribunal members** : **Mr D Jagger MRICS  
Mr J Reichel BSc MRICS  
Mr M Woodrow MRICS**

**Venue** : **Paper determination**

**Date of decision** : **30<sup>th</sup> June 2023**

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**DECISION**

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**The Tribunal determines £207.50 per week is to be registered as the fair rent for the above property with effect from 30<sup>th</sup> June 2023 being the date of the Tribunal's decision.**

The reasons for this decision are set out below.

## **Reasons**

### **Background**

On the 31st January 2023 the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £150 per week for the property.

The rent at the time of the application was £105.50 per week which was the rental figure entered into the tenancy agreement on the 18<sup>th</sup> November 2019.

This is a first registration by the Rent Officer and the capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 do not apply.

On 28th February 2023 the Rent Officer registered a fair rent of £122.30 per week, effective from that date. The rent increase imposed by the Rent Officer has not been “capped” or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 (the Order).

By an email dated 21st March 2023 from Brighter Places, the Landlord objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal.

### **The law**

When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It also must disregard the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant, on the rental value of the property. Section 70(2) of the Rent Act 1977 imposes on the Tribunal an assumption that the number of persons seeking to become tenants of similar dwelling house 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. This is commonly called ‘scarcity’.

In *Spath Holme Ltd v Chairman of the Greater Manchester Council (1995) 28 HLR 107* and *Curtis v London Rent Assessment Tribunal [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).

The Rent Acts (Maximum Fair Rent) Order 1999 places a “cap” on the permissible amount of the increase of a fair rent between one registration and the next, by reference to the amount of the increase in the United Kingdom Index of Retail Prices between the dates of the two registrations. Where the cap applies the Rent Officer and the Tribunal is prevented from increasing the amount of the fair rent that it registers beyond the maximum fair rent calculated in accordance with the provisions of the Order and the mathematical formula set out in the Order.

*By article 2(7) of the 1999 Order the capping provisions do not apply “in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.”*

### **Facts found without Inspection**

The parties did not request the Tribunal to inspect the property and the Tribunal were satisfied this was not required and relied on information provided by the parties together with its expert knowledge.

The property is a purpose built flat located at ground floor level which forms part of a four storey infill block built in 2009 with lift to upper floors located in an established road convenient to local amenities.

The accommodation comprises: living room, kitchen, two bedrooms, bathroom, communal garden overlooking parkland.

There is gas central heating to radiators and double glazed windows.

### **Terms of the tenancy**

The Secure Tenancy commenced on the 18<sup>th</sup> November 2019 with Solon South West Housing Association Ltd. It is agreed that the landlord is responsible for structural repairs and external decoration; the tenant is responsible for internal decorations. The property was let unfurnished.

## **Tenant's improvements and Condition**

The tenant has not indicated whether any improvements have been made to the property during the term of the tenancy. However, the landlord confirms carpets, curtains and any white goods were not provided by landlord.

## **Evidence**

The Tribunal had copies of the Valuation Office Agency correspondence and including the rent register effective from the 28th February 2023 together with the calculations for the most recent registration.

In a bundle of documents, the landlord provided information in connection with the property in the form of a completed Reply form, the front page of the tenancy agreement, reasons of the objection and somewhat generic list of comparables taken from "Righmove" which range from £1300 pcm- £1840 pcm. These details did not provide any precise addresses, no date of transaction or floor area. They do however include rental details of a flat in Cabot Court, to let at £1495 pcm The tenant has not engaged with this application

## **Valuation**

In the first instance 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 is considered usual for such an open market letting.

Based upon the generic list of comparable evidence provided by the landlord together with its expert knowledge, the Tribunal consider that the subject property, if finished to a reasonable standard would be likely to attract a rent let on an assured shorthold tenancy, for **£288** per week. (£1250 per month)

The landlord has confirmed that the sum of £10.01 per week is attributed to services. This sum is considered negligible by the Tribunal and does not form part of these calculations.

We now need to **adjust that hypothetical net rent of £288 per week** to allow for the differences between the terms of this tenancy and the lack of white goods, carpets and curtains, and the tenants decorating responsibilities (disregarding the effect of tenant's improvements and any disrepair or other defect attributable to the tenant).

The Tribunal has considered very carefully the landlord's submissions and the notes prepared by the Rent Officer.

Using our own expertise, we considered that deductions of 20% should be applied to take into account the terms of the tenancy, and the condition of the property at the commencement of the tenancy. This provides a deduction of

£57.60 per week from the hypothetical rent. This reduces the figure to £230.40 per week.

It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the tribunal's estimate of the amount by which the rent would need to be reduced to attract a tenant.

### **Scarcity**

The tribunal then went on to consider whether a deduction falls to be made to reflect scarcity within the meaning of section 70(2) of the 1977 Act. The tribunal followed the decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee*, in which it was held that scarcity over a wide area should be considered rather than scarcity in relation to a particular locality.

In the Tribunal's opinion there should be a deduction of 10% for scarcity as it is considered demand outweighs supply of rented properties in the area. This provides a figure of £23.04 and therefore reduces the rent to £207.36 per week, which is rounded up to **£207.50 per week** (£900 per month)

### **Conclusion**

The capping provisions of the Rent Acts (Maximum Fair Rent) Order do not apply and therefore the fair rent in accordance with the above calculations is **£207.50 per week**.

Therefore, this is the fair rent to be registered limited by the Rent Acts (Maximum Fair Rent) Order 1999 with effect from the **30<sup>th</sup> June 2023** being the date of the Tribunal's decision.

The rental figure determined by the Tribunal exceeds that proposed by the landlord. Such figure is the maximum rent payable. However, the landlord is under no obligation to charge the full amount.

**D Jagger MRICS Valuer Chair**

**30<sup>th</sup> June 2023**

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.