



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

**Case reference** : **LON/00BK/F77/2023/0047**

**Property** : **First Floor Flat, 28 Durweston Court,**

**Landlord** : **Speen Property Trust Ltd**

**Tenant** : **Mr D.J.P. Doughty**

**Type of Application** : **Rent Act 1977**

**The Tribunal** : **Judge H Carr  
Mr A Parkinson MRICS**

**Date of determination** : **21<sup>st</sup> July 2023**

**Date of full reasons** : **2<sup>nd</sup> October 2023**

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**DECISION**

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## Decision

1. The fair rent determined by the Tribunal is £14,415.50. The effective date is 21<sup>st</sup> July 2023

## Background

2. The property is a self-contained converted flat with full central heating comprising 2 rooms, a bathroom/WC and a kitchen.
3. The rent was previously registered on 25<sup>th</sup> September 2020 (effective from that date) at £10877.50 per year.
4. The landlord applied to the Rent Officer for a fresh registration of the rent on 29<sup>th</sup> September 2022 and a rent of £13,391.50, was registered on 8<sup>th</sup> November 2022, effective from that date. It may be noted that this was a capped rent and that rent officer noted that the uncapped rent was £15210.0. The landlord had in its application suggested a rent of £13,396.00 per annum
5. The tenant appealed against the rent registration on 5<sup>th</sup> December 2022. The basis for the appeal was that the 23.11% increase in rent was unjustified.
6. The tenant requested a hearing. He attended the hearing along with Mr Michael Burbage representing the landlord.

## The Hearing

7. Mr Doughty gave evidence as follows:
  - a. The flat is one of five in the block. He is the only rent act tenant and his property is the only one with crittal windows which means his flat is poorly insulated. He also has two skylights, one in the hall and one in the bathroom. Mould and condensation are recurring problems in the property.
  - b. Mr Doughty said that he put in the original central heating himself in 1987 and has replaced the boiler on a couple of occasions since. The landlord replaced the boiler last year.
  - c. Mr Doughty installed an electric shower in the bathroom. He has provided all the furnishings, white goods and floor coverings.
  - d. Mr Doughty pointed out that the biggest problem with the property was the car business that is run within the courtyard where his flat is situated. The business involves the garaging of high-performance cars which requires the proprietor to run the car engines at regular intervals. This leads to a lot of noise and that noise can occur at any time of the day or night. It also involves lights being switched on.

- e. There are also problems with people entering the courtyard, urinating there, fiddling with locks. There are some security cameras.
8. Mr Burbage gave evidence as follows:
- a. The car business had been on site since the 1950s in one form or another.
  - b. Mr Doughty's landlord is also the landlord of the other flats in the court.
  - c. There are five flats in total. Three are approached from the street, but the doors of flats 28 and 29 are within the courtyard. All five flats overlook the yard where the garaging business operates.
  - d. All the flats suffer from poor insulation although the other flats have been upgraded and are let out on ASTs. They have modernised bathrooms and kitchens. Their rent includes utilities and council tax.
  - e. Mr Burbage was not sure of the history of the central heating but confirmed that the boiler was replaced in March 2023 by the landlord.
  - f. Mr Burbage said that the most comparable flat is flat 29 which is identical to Mr Doughty's flat but the layout is reversed. It is a 1 bedroom flat with double glazing and was let out in September 2022 at a rent of £27,300 per annum.
  - g. Flat 25 is a 2-bedroom flat which was let out at an agreed rent on 12th August 2021 of £31,200.
  - h. Flat 26 is a 1 bedroom flat which is approached from the street. There has been difficulty letting it out but it was let at a rent of £27,560 in December 2022.
  - i. Flat 27 is a 2 bedroom flat let on 1st July 2023 at a rent of £27,540.
  - j. Whilst the tenant commented that people don't stay long in the flats, the landlord's position is that they are often rented by young mobile professionals who inevitably move on. There are very few voids and demands for the flats is very high.

### **Inspection**

- 9. The Tribunal inspected the property on 21 July 2023 in the presence of the tenant. In general the flat was in adequate condition but unmodernised. The tribunal saw evidence of mould and noted the poor quality of the windows,
10. There is no provision of carpets, curtains and white goods as would be expected in a modern market rent property.

### **The law**

- 11. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70:
  - (1) has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;

- (2) disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
- (3) assumes (as required by s.70(2)) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words that the effect of any such 'scarcity' on rental values is not reflected in the fair rent of the subject property.

12. 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 section 70 means
- (a) that ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' 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).
- Thus once the market rent for the property has been determined by the exercise in (2) above that rent must be adjusted, where necessary, for any scarcity.

13. The Rent Acts (Maximum Fair Rent) Order 1999 (SI 1999/6) is applicable.

### **Determination**

14. The Tribunal determined, having regard to comparable properties available for letting at market rents in the area, that the open market rent for the property in good condition was £27,846 per annum based on the rent achieved for Flat 29 plus a modest 2% uplift to account for flat 29 being let in September 2022.
15. It considered that further deductions of 30% (£8,353.80) should be made for the lack of double glazing, unmodernised bathroom and kitchen, internal decorations and flooring. This 30% deduction also takes into account work undertaken at the tenant's expense in relation to the central heating system installation and shower.
16. The Tribunal also determined that there was scarcity in the area and made a further deduction of 20% (£3,898.44)
17. This gave an overall deduction from the open market rent to arrive at a rounded fair rent of £15,600 per annum. However because of the applicability of the capping provisions the rent was determined at £14,415.50.