



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

**Case reference** : **BIR/17UF/F77/2023/0039**

**Property** : **Tor House  
Middleton BY Youlgreave  
Bakewell  
Derbyshire  
DE45 1LS**

**Applicant** : **Mr Bingham**

**Representative** : **None**

**Respondent** : **Mrs M Mercy**

**Representative** : **Citizens Advice**

**Type of application** : **Application under Section 70 of the Rent Act 1977 by the Applicant against the rent assessed for the property by the Rent Officer**

**Tribunal members** : **Mr G S Freckelton FRICS (Chairman)  
Mrs K Bentley**

**Inspection/Hearing** : **The property was inspected on 14<sup>th</sup> February 2024. Neither party requested a hearing. The matter was determined by a paper determination**

**Date of original decision** : **14<sup>th</sup> February 2024**

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**DETAILED REASONS**

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## **BACKGROUND**

1. On 26<sup>th</sup> June 2023, the Applicant Landlord applied to the Rent Officer for registration of a fair rent for the property Tor House, Middleton BY Youlgreave, Bakewell, Derbyshire, DE45 1LS. The rent payable at the time of the application was stated as being £7,861.50 per annum which the Tribunal calculates to equate to £655.12 per month.
2. The rent was previously registered at a rental of £7,861.50 per annum with effect from 15<sup>th</sup> September 2021 following a registration by the Rent Officer.
3. The Rent Officer registered a rental of £720.00 per month with effect from 15<sup>th</sup> September 2023.
4. By letter dated 17<sup>th</sup> November 2023, the Applicant objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. The Tribunal made a determination of the rent payable on 14<sup>th</sup> February 2024 and these Detailed Reasons are given in response to a request for same by the Respondent.

## **INSPECTION**

6. The Tribunal carried out an inspection of the property on 14<sup>th</sup> February 2024. Neither party requested a hearing and the determination was therefore made based upon the Tribunal's inspection and on the submissions received.
7. The property comprises of a detached former farmhouse situated in the small picturesque village of Middleton BY Youlgreave.
8. The accommodation comprises entrance hall, two living rooms, further separate dining room and kitchen on the ground floor. There is also a bathroom having a bath with electric shower over, low flush WC and Wash hand basin. There is a rear hall/porch off the kitchen leading to the outside of the property.
9. On the first floor the landing leads to three double bedrooms, one single bedroom and bathroom being fitted with a three-piece suite with electric shower over the bath, wash hand basin and low flush WC.
10. A staircase from the first-floor landing leads to attic bedroom five having restricted eaves height and a large open store off.
11. The property occupies grounds which are understood to extend to approximately 0.75 acre. There are several outside stores, outbuildings and open garage.
12. The Tribunal noted that the property was in need of ongoing modernisation and some repair. Electric heaters had been fitted to some rooms by the landlord. There was evidence of water ingress to bedroom 3 on the first floor possibly caused by faulty/blocked gutters. There was also evidence of some penetrating and rising damp and damage to some ceilings.
13. The Tribunal was informed that the external walls to most rooms had been dry lined to provide additional thermal insulation. The landlord had fitted a new front door to the hallway.

14. The tenant had fitted the electric showers to both bathrooms together with the wash hand basin to the first-floor bathroom, the UPVC door and window to the kitchen and the kitchen fittings although the latter were some 40 years old and noted to be in need of replacement. With the exception of the door and window to the rear of the kitchen all the windows were single glazed.

### **EVIDENCE**

15. The Tribunal received written representations from both parties which were copied to the other party.
16. Neither party requested a hearing and the matter was therefore dealt with by a paper determination.

### **THE APPLICANT'S SUBMISSIONS**

17. The Applicant landlord submitted that he had carried out work to the lead valley and roof over the kitchen and that he understood the tenant was to have carried out some ceiling repairs internally which had never been completed.
18. In addition, extensive repairs had been carried out over a 10-year period but the house and grounds were very untidy. He had cut down a considerable amount of creeper/ivy growing over the walls.
19. To determine a Market Rental the Applicant referred in particular to:
  - 1) Alport, Bakewell – a 4-bedroom house with 2 living rooms to let at £1,900.00 per month.
  - 2) Sunnydene The Lane, Stanton-In-The-Peak – A 4 bedroom detached house with 2 bathrooms and 2 living rooms to let at £2,000.00 per month.
  - 3) Great Longstone A 4 bedroom detached house with 3 living rooms and 2 bathrooms to let at £1,850.00 per month.

### **THE RESPONDENT'S SUBMISSIONS**

20. The Respondent tenant acknowledged that the landlord had carried out some repairs but no improvements that would justify a higher rent than that set by the Rent Officer.
21. The Respondent referred to the following comparable properties which were registered by the Rent Officer.
  - 1) Wye View, Church Lane, Rowsley - the rent was assessed in 2017 at £448.50 per month.
  - 2) Fern Bank Rowsley - the rent had was assessed in 2014 at £450.00 per month.
  - 3) Mill House, Rowsley - the present registered rent, fixed in 2021 was £586.66 per month.
22. The Tribunal noted that all the registered rentals as quoted above were somewhat historic.

## THE LAW

23. When determining a fair rent, the Tribunal, 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.
24. In *Spath Holme Limited v Chairman of the Greater Manchester, etc. Committee* [1995] 28HLR107 and *Curtis v London Rent Assessment Committee* [1999] QB92 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 were usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

## VALUATION

25. In the first instance, the Tribunal determined what rent the Applicant 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 open market lettings. It did this by having regard to the Tribunal's own general knowledge of market rent levels in the area of Derbyshire.
26. Having taken the various matters into consideration it determined that the open market value of the property in good condition would be the sum of £1,600.00 per month.
27. However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore, it was first necessary to adjust the hypothetical rent of £1,600.00 per month to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as described by the parties and the Rent Officer (disregarding the effect of any disrepair or other defects attributable to the tenant or any predecessor in title).
28. The Tribunal determined that the following monthly deductions were appropriate:

a) Replastering/rising damp	50.00
b) Damp penetration/roof & gutter repairs	50.00
c) Central Heating	80.00
d) Double Glazing	70.00
e) Refitted Kitchen	65.00
f) Carpets and curtains	50.00
g) Fridge/freezer	9.00
h) Washing Machine	6.00
i) Bathroom upgrades	60.00
j) <u>Decorating liability</u>	<u>60.00</u>
Total	£500.00

29. The Tribunal then considered the question of scarcity. This is done by considering whether the number of persons genuinely seeking to become tenants of similar properties in the wider area of Derbyshire on the same terms other than rent is substantially greater than the availability of such dwellings as required by section 70(2) of the Rent Act 1977.
30. The Tribunal finds that many Landlords dispute that scarcity exists because they are of the opinion that the market is 'in balance'. Although Tenants do not in all cases have difficulty in finding accommodation this ignores the fact that it is the price of such accommodation which creates a balance in the market. Section 70(2) specifically excludes the price of accommodation from consideration in determining whether there are more persons genuinely seeking to become Tenants of similar properties than there are properties available. Although the rental market for Assured Shorthold properties may be in balance many potential Tenants may be excluded from it for various reasons such as age, poor credit history or because they are on housing benefit.
31. In this case the Tribunal, having carried out appropriate research, is satisfied that it is appropriate to make a deduction for scarcity which the Tribunal assesses at £220.00 per month. This leaves a fair rent for the subject property of £880.00 per month (£1,600.00 - £500.00 - £220.00)
32. However, the Section 70 fair rent determined by the Tribunal is above the level of the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly the rent is therefore determined at £837.33 per month being the maximum rental permitted by the Order.

### **DECISION**

33. The fair rent determined by the Tribunal for the purposes of Section 70 was accordingly £837.33 per month.

### **APPEAL**

34. If either of the parties is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the upper Tribunal (Lands Chamber), **on a point of law only**. Any such application must be received within 28 days after these written reasons have been sent to them (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

Graham Freckelton FRICS  
Chairman  
First-tier Tribunal Property Chamber (Residential Property)