



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

Case Reference : BIR/00CT/F77/2023/0012

Property : 155 Summerfield Rd., Solihull, West Midlands, B92 8PT

Applicant : Northumberland & Durham Property Trust Limited

Representative : Grainger plc

Respondent : Mrs K. Edginton

Type of Application : Appeal against the Rent Officer's Decision of Fair Rent under the s.70 Rent Act 1977

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
D.J. Satchwell FRICS

Date and Venue of Hearing : Not Applicable, paper determination

Date of Decision : 19 October 2023

DECISION

- 1 The Fair Rent is determined at £864.00 (Eight Hundred and Sixty Four Pounds) per calendar month from 19 October 2023.

REASONS

Introduction

- 2 Mrs Edginton holds a protected tenancy of 155 Summerfield Rd., Solihull, West Midlands, B92 8PT. The fair rent had previously been registered by the Rent Officer at £655.00 per calendar month on 1 March 2021 to take effect on 23 March 2021. On 13 January 2023 the landlord applied for a rent increase to £818.75 pcm and on 1 March 2023 the Rent Officer registered a new rent of £700.00 pcm to take effect on 23 March 2023.
- 3 The landlord appealed against the Decision by email to the Valuation Office Agency dated 29 March 2023 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 19 October 2023 and the Decision papers were sent to the parties. On 15 November 2023 the Tribunal received an email from the landlord's agents Grainger plc requesting reasons for the Decision which are the subject of this document.

The Law

- 4 Mrs Edginton is a protected tenant as acknowledged by the landlord. The Tribunal has not been provided with a copy of the tenancy agreement but understands the property had been let unfurnished with the landlord responsible for repairs to the structure and exterior and the tenant responsible for internal decorations in accordance with s.11 of the Landlord & Tenant Act 1985.
- 5 Accordingly, the rent falls to be determined in accordance with s.70 of the Rent Act 1977.
- 6 S.70(1) states that in determining a fair rent, regard has to be had to all the circumstances of the tenancy (other than personal circumstances) including the age, character, locality and state of repair of the house, whether the property is let furnished and whether a premium had been paid or would be required to renew, continue or assign the tenancy.
- 7 S.70(2) adds a further qualification that it is assumed that the number of parties seeking to become tenants of similar houses in the locality on the terms of the tenancy (other than the rent) is not substantially greater than the number of houses available to let on such terms. This is usually referred to as 'scarcity' and the Court of Appeal held in *Spath Holme Ltd. v Chairman of the Greater Manchester Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 that under normal circumstances the fair rent is the market rent discounted for scarcity. The Court also held that assured tenancy rents could be considered comparable to market rents.
- 8 S.70(3) requires the valuation to disregard any disrepair due to a tenant's failure to comply with the terms of the tenancy and any improvements carried out by either the tenant or their predecessor in title.

Facts Found

- 9 The Tribunal inspected the property on 19 October 2023 and found it to be in generally good condition. It is a semi-detached house in a popular and well established residential part of Solihull within 5 minutes' walk of the main JLR site on Lode Lane and walking distance of local shops, schools and facilities.
- 10 The house is of two storey brick and tile construction with an entrance hall, living room, dining room and kitchen on the ground floor with a landing, three bedrooms and bathroom on the first floor. The front garden is paved to provide an off-road parking space and there is a pleasant, enclosed back garden.
- 11 The landlord had provided double glazing and part central heating with radiators in the main accommodation but not bedroom 3. The landlord had renewed the front and back doors since the last rent increase. The tenant had provided the carpets, curtains and white goods and carried out improvements to the garden.

Submissions

- 12 Neither party requested a Hearing.
- 13 The landlord's agents sent a written submission they asked the Tribunal to take into account. They described the property and provided details of a comparable property in Knightsbridge Road, Solihull, advertised to let at £1,250 per month as a basis of valuation. They considered the comparable to be better but after reducing its rent by £100 pcm for unspecified tenant improvements and £25 pcm to reflect the older bathroom suite in the subject house, £35 pcm for the landlord's decorating liability and £15 pcm for the lack of carpets and curtains, they considered the equivalent open market rental value of the subject property to be £1,075 p.c.m. but only requested a revised rent of £818.75 pcm.
- 14 They made no deduction for scarcity, i.e. any reduction to reflect the point covered by section 70(2) of the Rent Act 1977.
- 15 The tenant sent a written submission drawing attention to the following:
 - a) there was only partial central heating;
 - b) there was no garage;
 - c) the guttering and a fence needed replacement;
 - d) the front drive paving slabs were uneven;
 - e) the bedroom air vents would not open;
 - f) the kitchen was said to be unfit for purpose;
 - g) there was reported to be damp in the ceiling of bedroom 2 to the rear of the property;
 - h) the radiator valves were reported to be not working;
 - i) there were other minor points relating to the age and design of the property that the tenant asked the Tribunal to consider.

Decision

- 16 To assess the Fair Rent the Tribunal needs to assess the rental value of a house in good condition as a starting point, assuming it has been well maintained and modernised with central heating, reasonable kitchen units and a bathroom suite in fair condition, fully equipped with carpets and curtains and ready to let in the open market. The Tribunal had been provided with details of only one other house to let in the area but using its expert knowledge and experience considered the asking rent of the comparable to be fair. Having

considered the limited evidence and using its own general knowledge (but no special or secret knowledge) of rents in the area, the Tribunal found the rental value of the subject house fully fitted and in good condition to have been £1,250 pcm at the valuation date.

- 17 However, the property was not let in that condition. There were no carpets or curtains included in the tenancy for which the Tribunal deducted £40 pcm and no white goods for which the Tribunal deducted £25 pcm. There was no central heating in the third bedroom for which the Tribunal deducted £25 pcm. The deductions for lack of amenity were therefore £90 pcm.
- 18 The Tribunal noted that the tenant had improved and maintained the garden which was worth around £25 pcm and is deducted from the rental value in accordance with the Act.
- 19 £1,250 less £90 for lack of amenity and £25 for the tenant's improvement leaves £1,135 pcm.
- 20 The Tribunal considered the question of scarcity in s.70(2) of the Rent Act 1977 and found that the number of potential tenants looking for accommodation of this type in the area would be greater than the number of units available to let. We find the excess demand represents at least 10% of the market rent, rounded to £115 pcm, which is deducted to arrive at the statutory basis for fair rent.
- 21 Deducting £115 for scarcity leaves a net rent of £1,020.
- 22 However, under The Rent Acts (Maximum Fair Rent) Order 1999 which limits increases to the last registered rent increased for inflation plus 5%, the maximum rent that can be determined by the Tribunal is £864.00 per month.
- 23 There is no service charge payable and the rent is not registered as variable.
- 24 Accordingly, the Tribunal determines the Fair Rent at £864.00 (Eight Hundred and Sixty Four Pounds) per calendar month with effect from the date of its decision, 19 October 2023.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after these reasons have been sent to the parties under Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.