



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

**Case reference** : **CHI/00MS/F77/2024/0001**

**Property** : **68 MacNaghten Road, Southampton,  
Hampshire, SO18 1GJ**

**Applicants  
(Landlord)** : **Mr M Pines**

**Representative** : **Beals Estate Agents**

**Respondent  
(Tenant)** : **Mrs M Jones**

**Representative** : **None**

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

**Tribunal members** : **Mr D Jagger MRICS  
Mr S Hodges FRICS  
Mr K Ridgeway MRICS**

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

**Date of decision** : **22<sup>nd</sup> February 2024**

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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 the 22<sup>nd</sup> February 2024 being the date of the Tribunal's decision.**

The reasons for this decision are set out below.

## **Reasons**

### **Background**

On 2<sup>nd</sup> October 2023 the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £1,300 per month (£300 per week) for the property.

The rent payable at the time of the application was £178.50 per week effective from 13<sup>th</sup> July 2021

On the 24<sup>th</sup> November 2023 the Rent Officer registered a fair rent of £205.00 per week, effective from the 24<sup>th</sup> November 2023. The rent increase imposed by the Rent Officer had not been “capped” or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 (the Order).

By an email dated 8<sup>th</sup> December 2023 from Adrian Pryke, on behalf of 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 was satisfied this was not required and relied on information provided by the parties together with its expert knowledge.

The property is a semi-detached Victorian house located in an established residential area close to local amenities.

The accommodation comprises: 2 reception rooms, kitchen, 3 bedrooms, ground floor shower room. rear garden.

There is double glazing and partial gas central heating.

### **Terms of the tenancy**

It is understood that this tenancy commenced on the 1<sup>st</sup> March 1985, although an agreement was not provided by the parties. 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 evidence**

The landlord submitted written representations together with a generic Rightmove "Best Price Guide" which provided seven comparables which ranged from £1,300 pcm to £1,600 pcm. In addition, the landlord provided details of two further properties in MacNaghten Road and Rampart Road which were available to let at £1,500 pcm and £1,350 respectively.

The tenant confirms he installed the kitchen fittings in 2018, and the shower fittings also in 2018.

## **The Rent Officer Calculations.**

The Tribunal had copies of the Valuation Office Agency correspondence and including the rent registers effective 13th July 2021 and the most recent being the 24<sup>th</sup> November 2023 together with the calculations for the most recent registration.

## **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 evidence provided 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, of £312 per week (£1,350 per month)

Next, the Tribunal needs to **adjust that hypothetical rent of £312 per week** to allow for the differences between the terms of this tenancy and the lack of white goods, carpets and curtains, tenants internal decoration responsibility, dated kitchen and shower fittings and partial central heating (disregarding the effect of tenant's improvements and any disrepair or other defect attributable to the tenant).

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

Using our own expertise the Tribunal considered that deductions of approximately 30% should applied in order to take into account the terms of the tenancy and condition of the property. This provides a deduction of £93.60 per week from the hypothetical rent. This reduces the figure to **£218.40** 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**

Thirdly, 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 Tribunals opinion there should be a deduction of 5% for scarcity as it is considered that demand outweighs supply for rented properties in the area. Applying this deduction of £10.92 produces a rental figure of **£207.50**.

## **Conclusion**

The capping provisions of the Rent Acts (Maximum Fair Rent) Order do not apply and therefore the above figure applies. For information, the capped fair rent in accordance with the attached calculations is £231 per week. For the tenant's information, this calculated figure is based upon the latest RPI figure and therefore there has been an increase since the Rent Officers registered rent.

Therefore, £207.50 per week is the fair rent to be registered limited by the Rent Acts (Maximum Fair Rent) Order 1999 with effect from the 22<sup>nd</sup> February 2024 being the date of the Tribunals decision.

Detailed calculations are provided attached to this decision form.

**D Jagger MRICS Valuer Chair**

**6<sup>th</sup> February 2024**

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).