



FIRST - TIER TRIBUNAL  
PROPERTY CHAMBER  
RESIDENTIAL PROPERTY)

Case Reference : CAM/22UH/F77/2023/0062  
Property : 35 St Peters Avenue, Ongar, Essex CM5 OBT  
Tenant : Mrs Joan Mary Ann Richardson  
Landlord : Dorrington Housing Ltd  
Agent : Savills UK Ltd  
Type of Application : Determination of a fair rent under section  
70 of the Rent Act 1977  
Tribunal Members : Judge JR Morris  
Mr Gerard Smith MRICS FAAV REV  
Date of Decision : 23<sup>rd</sup> May 2024

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DECISION

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DECISION

1. The Fair Rent for the Property is determined to be £235.00 per week as from 23<sup>rd</sup> May 2024 which is below the capped rent of £288.50 per week under the Rent Acts (Maximum Fair Rent) Order 1999.

REASONS

THE PROPERTY

2. The Property is a first-floor purpose built self-contained duplex maisonette in a three-storey block of similar properties. The block has brick elevations to the ground and first floor and the third floor is set into the mansard roof of interlocking concrete tiles. The block was probably constructed in the 1950s. The doors are timber and the windows have upvc frames with double glazed units. The rainwater goods are upvc. There is a large grassed area to the front edged at the boundary with a privet hedge which is part of the ground floor flats' demise. There is a concrete path to the front door. At the rear the two upper floor maisonettes each have a garden. The Property's Garden is larger than the other. There is no parking at the Property but there are parking bays across the estate. These are not allocated to houses and are available on a first come basis.

### Accommodation

Access to the Property is via a door entry system to a common hallway and stairs which rise to a first-floor landing either side of which are two front doors, one to the Property and the other to the neighbouring upper floor maisonette. The Property comprises an entrance hall off which there is a living room. There is a kitchen at the end of and open to the landing. From the first-floor landing rise stairs to the second-floor landing off which there are three bedrooms and a bathroom with w.c.

### Services

Space heating is by a gas fire in the living room provided by the Landlord and by the Tenant's own appliances. Water heating is by an electric immersion heater. The Property has mains gas, electricity, water, and drainage.

### Furnishing

The Property is let unfurnished. Carpets, curtains, and white goods are not provided by the Landlord.

### Location

The Property is situated on a residential estate in Ongar.

## THE TENANCY

3. The Tenant is a former protected tenant of the same Landlord. Therefore, notwithstanding that the current tenancy commenced on 7<sup>th</sup> September 1992, pursuant to section 34(1) of the Housing Act 1988 the Tenancy continues, in accordance with the previous tenancy prior to that date, to be a weekly periodic tenancy regulated under the Rent Act 1977. As a Tenancy, not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs.

## THE REFERRAL

4. A rent of £222.00 per week was registered on 15<sup>th</sup> September 2021 and effective from 30<sup>th</sup> October 2021. The Landlord by a notice in the prescribed form received by the Rent Officer on 16<sup>th</sup> October 2023 proposed a new rent which was expressed as being £12,121.20 per annum. This equates to £233.10 per week. The tenancy is a weekly periodic tenancy and the rent is payable weekly and should be expressed as a weekly amount to reflect this. On 28<sup>th</sup> November 2023 the Rent Officer registered a rent effective from that date of £230.00 per week, which was lower than the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. On 18<sup>th</sup> December 2023 the Landlord referred the Rent Officer's assessment to the Tribunal. The referral was dealt with by written representations and inspection.

## THE LAW

5. The relevant Law relating to these reasons is contained in the and the Rent Act 1977.

## INSPECTION

6. The Tribunal inspected the Property in the presence of the Tenant.

7. Externally the Property is in fair condition although the windows and frames requiring cleaning. It is difficult to see out of the windows on the second floor.
8. Internally the common parts are utilitarian with exposed brickwork and concrete stairs and appear neglected. The common parts, (including the external areas of second floor windows and gutters which require working at height plant such as a cherry picker to maintain) are maintained to a very basic standard by the local authority which is the head landlord and to whom it is understood the Tenant's immediate landlord pays an unknown service charge, which is apparently included in the rent. The kitchen and bathroom are basic and dated. There is no extractor fan in either. The Landlord has brought the electrical consumer unit and pendant light fittings up to current standards.

## REPRESENTATIONS

### *Landlord's Written Representations*

9. The Landlord's Agent said that the rent was objected to because the increase was less than 5%.

### *Tenant's Written Representations*

10. The Tenant said the Landlord had rewired the Property and fitted a new gas fire 4 years ago. She said that there had been no other changes, everything was the same as at the previous assessment, she still did not have a new kitchen.

## DECISION

11. The Tribunal assessed the rent for the Property pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances). The Tribunal took account of the relevant cases and legislation including *Spathe Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24<sup>th</sup> May 1991.
12. The Tribunal, like the Rent Officer, is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market taking into account the age, character, locality, state of repair. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time. The Tribunal does not take into account the present rent or the period of time for which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the existing rent.
13. The Tribunal is not able to take the personal circumstances of either party into account.
14. The Tribunal assesses a rent based upon the condition of the Property at the time of the determination. It cannot consider the period in which a property might have been in disrepair prior to work being carried out by the Landlord. Equally it cannot consider work that is said to be intended or scheduled to take place in the future.

15. The amount of any service charge is only relevant in setting the rent as an indication of the type and extent of the services provided. In this case they appear basic.
16. The rent once registered remains the same until an application to register a new rent is made. The minimum period between registrations is two years except that an application may be made within the period of two years from which the date the last registration took effect pursuant to section 67 (3) (a) Rent Act 1977 on the ground that the condition of the dwelling house has changed.
17. Neither party provided rental values of comparable properties. The Tribunal therefore used the knowledge and experience of its members. The Tribunal firstly determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality in particular. It then adjusts these to take account of the condition of the Property compared with that of comparable properties.
18. The Tribunal found that comparable properties of similar age and character that had recently been let were in the region of £320.00 per week. However similar properties let at that rent are in good condition, with central heating, modern kitchen, and bathroom (including a shower) and include floor coverings. A number also have curtains/blinds/shutters and nearly all have a cooker (oven and hob) and some have additional white goods e.g. a fridge.
19. The Tribunal found that the Property was let without central heating, floor coverings or any white goods and with a dated and basic kitchen, and bathroom and the common parts were neglected. The Tribunal made a deduction of £85.00 to take account of these matters and determined a rent of £235.00 per week.
20. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

## SCARCITY

21. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
22. That experience and consideration leads the Tribunal to the view that at the time of the determination demand for "... similar dwelling houses in the locality..." that are available for letting was not significantly greater than supply. "Locality" in this case being Essex. Therefore, no deduction was made to take account of scarcity.

## TRIBUNAL'S CALCULATIONS

23.	Open Market Rent:	£320.00 per week
	Less global deduction	<u>£85.00</u>
	Fair Rent	£235.00 per week

24. Therefore, the Tribunal determines a fair rent of £235.00 per week.

25. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. The capped rent is £288.50 per week, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the Tribunal is to be registered.

FAIR RENT = £235.00 per week as from 23<sup>rd</sup> May 2024.

Judge JR Morris

Caution: The Tribunal inspected the Property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

#### ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.