



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

<b>Case Reference</b>	:	<b>CAM/33UG/F77/2024/0016</b>
<b>Property</b>	:	<b>9 Skomer Road Norwich Norfolk NR5 9AX</b>
<b>Applicant</b>	:	<b>Miss Leza Bales (Tenant)</b>
<b>Representative</b>	:	<b>None</b>
<b>Respondent</b>	:	<b>Places for People (Landlord)</b>
<b>Representative</b>	:	<b>None</b>
<b>Type of Application</b>	:	<b>S.70 Rent Act 1977 – Determination of a new fair rent</b>
<b>Tribunal Members</b>	:	<b>Mr N. Martindale FRICS</b>
<b>Date and venue of Meeting</b>	:	<b>19 August 2024 First Tier Tribunal (Eastern) County Court Cambridge CB1 1BA</b>
<b>Date of Decision</b>	:	<b>19 August 2024</b>

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**REASONS FOR DECISION**

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**Background**

- 1 By a RR1 application of dated 6 March 2024, the landlord applied to the Rent Officer for registration of a fair rent of £98.95 per week. The rent stated by the landlord, payable at the time of the application was £90.35 per week. The registered fair rent payable from 12 March 2015 was £115 per week. It is understood that this was not the rent being charged by the landlord though; rather the lower sum.

- 2 The Rent Officer registered a fair rent but, on application from the tenant the matter was referred to the Tribunal for a re-determination.

### **Directions**

- 3 Directions dated 17 June 2024 were issued by Laura Lawless Legal Officer, for case progression. A hearing was not requested. A determination was set down for 19 January 2024 on the papers.

### **Representations**

- 4 The tenant's written representations included a brief letter of appeal. A standard Reply Form of 10 July 2024 was received by the Tribunal from the tenant with basic information, in particular room dimensions. The tenant felt the registered rent should be much lower. The increase determined by the Rent Officer so far, from the rent being billed (not the existing registered fair rent), had been very considerable.
- 5 The Tribunal did not receive any representations from the landlord.
- 6 The Tribunal is grateful for the information received from the parties.

### **Inspection**

- 7 The Tribunal did not inspect the Property. The Tribunal was however able to externally view the Property from Google Streetview (@ October 2023). The house appears to date from the 1980's and forms part of an established residential estate with some unrestricted on street parking and a small back yard/ garden and outside store.
- 8 The house has brick faced external walls and a double pitched roof to single concrete tiles. Externally, to the front elevation, the Property appears in fair to good condition. Windows are double glazed. There is central space heating and hot water. The accommodation is ground floor: 1 large through lounge/ dining room and separate kitchen, with, on the first floor 2 small doubles and a single bedroom, with bathroom /WC.

### **Law**

- 9 When determining a fair rent the Committee, 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.
- 10 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 emphasized

- (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).
- 11 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an un-modernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 12 On the evidence of the comparable lettings and our own general knowledge of market rent levels in and around Norwich, we accept that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £225 per week. This then, is the appropriate starting point from which to determine the rent of the property as it falls to be valued.
- 13 A normal open market letting would include carpets, curtains and “white goods”, but the Tribunal concludes that these are by now (if they had ever been provided by the landlord since 1989 the recorded start of this tenancy) no longer provided here by the landlord, but by the tenant. A deduction for these minor shortcomings at the Property amounts to £15 pw, leaving the adjusted market rent at £210 per week.
- 14 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply in this locality. The Tribunal found that there was no scarcity in the locality of Norwich for this type and size of property and therefore makes no further deduction from the adjusted market rent to reflect this.
- 15 The fair rent to be registered on this basis alone would be £210 pw, but, the new rent can be limited by the statutory Maximum Fair Rent Cap calculation. This limits any increase to the change in RPI between the date of the last registration of a fair rent and the current, plus 5%.

- 16 The calculations are shown in the MFR form attached. This caps the new rent at £178.05 per week. As this is significantly lower than the adjusted uncapped fair rent, the new fair rent remains reduced and capped at £178.05 per week instead. The Rent Act makes no allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent.
- 17 The landlord is entitled but, not compelled, to charge the new rent at the registered figure from the effective date. However the landlord may not charge more than this fair rent. They may continue to choose or be otherwise limited to charge a smaller sum.

**Chairman N Martindale FRICS**

**Dated 19 January 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).

## Notice of the Tribunal Decision

### Rent Act 1977 Schedule 11

**Address of Premises**

9 Skomer Road  
Norwich  
Norfolk NR5 9AX

**The Tribunal members were**

Mr N Martindale FRICS

**Landlord**

Places for People

**Tenant**

Miss Leza Bales

**1. The fair rent is**

£178.05

**Per**

week

(excluding water rates and council tax but including any amounts in paras 3&4)

**2. The effective date is**

19 August 2024

**3. The amount for services is**

£ 1.04

**Per**

week

negligible/not applicable

**4. The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is**

nil

**Per**

negligible/not applicable

**5. The rent is to be registered as variable.**

**6. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply.**

**7. Details (other than rent) where different from Rent Register entry**

As register entry.

**8. For information only:**

The fair rent to be registered is the maximum fair rent as prescribed by the Rent Acts (Maximum Fair Rent) Order 1999. As the fair rent was above the MFR, it remains capped at the MFR. The fair rent would otherwise have been £210 per week. The landlord is not compelled to charge the fair rent stated at box 1 above. They may charge a sum up to and including that rent but, not more.

**Chairman**

N A Martindale

**Date of decision**

19 August 2024

## MAXIMUM FAIR RENT CALCULATION

<b>LATEST RPI FIGURE (2 months prior) X</b>		387.3	
<b>PREVIOUS RPI FIGURE (2 months prior) Y</b>		255.4	
<b>X</b>	387.3	<b>Minus Y</b>	255.4
		<b>= (A)</b>	131.9
<b>(A)</b>	131.9	<b>Divided by Y</b>	255.4
		<b>= (B)</b>	0.5164

**First application for re-registration since 1 February 1999 NO**

<b>If yes (B) plus 1.075 = (C)</b>	
<b>If no (B) plus 1.05 = (C)</b>	1.5664
<b>Last registered rent*</b>	£112.88 week
<b>Multiplied by (C) =</b>	£176.82
*(exclusive of any former variable service charge of £2.12 pw)	
<b>Rounded up to nearest 50p =</b>	£177
<b>Current variable service charge</b>	<b>Yes £1.05 pw</b>
<b>If YES add amount for services</b>	£178.05
<b>MAXIMUM FAIR RENT =</b>	<b>£178.05</b>
	<b>Per</b>
	<b>week</b>

### Explanatory Note

1. The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
2. In summary, the formula provides for the maximum fair rent to be calculated by:
  - (a) increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
  - (b) adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).  
 A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B).  
 The result is rounded up to the nearest 50 pence.
3. For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Tribunal's fair rent determination was made.

4. The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.