



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

Case Reference : **MAM/LON/00AQ/F77/2023/0315**

Hearing Type : **By Way of Written Representations**

Property : **2 Abbots Court, Ashbourne Avenue, Harrow, HA2 0LE**

Applicant : **Ms Donna Douglas (Respondent)**

Respondent : **Home Group Ltd (Applicant)**

Date of Objection : **23 August 2023**

Type of Application : **Section 70 Rent Act 1977**

Tribunal Member : **Mr John A Naylor FRICS, FIRPM
Valuer Chairman**

Date of Hearing : **10 June 2024**

Date of Full Reasons : **13 June 2024**

DECISION

- (1) The sum of **£470.88 per month** will be registered as the fair rent with effect from 10 June 2024 being the date the Tribunal made the decision.

REASONS

Background

1. On 9 June 2023 the landlord sent an RR1 application for rent registration of a fair rent to the rent officer. The previous rent was determined by the rent officer on 12th February 2018 at a rent of £269.81 per calendar month. On 31st July 2023 the rent officer registered a fair rent of £444.54 effective from 31st July 2023
2. By way of an email dated 23 August 2023 the landlord queried the calculation of the service charge element of the registered rent and thus the level of the registered rent itself.
3. The Valuation Officer subsequently made an application to the Tribunal on 30 August 2023 for the determination of the fair rent.
4. On 18th October 2023 the Tribunal issued directions to the parties requiring them to produce any evidence on which they wished to rely in support of their respective cases including by use of a reply form. The matter was set down for determination on the papers unless either party requested a hearing which neither party did. The landlord was directed to return the reply form with any documents upon which it wished to rely by 1 November 2023. The tenant was directed to do likewise by 15 November 2023 with the landlord given a further opportunity to respond by 22 November 2023.
5. Neither party took the opportunity to make submissions; although the Tribunal has had sight of the landlord's email dated 23 August 2020 and a copy of a Home Group document titled; Summary of Actual Service Charge, in which details of the service charge are provided.
6. The Tribunal has also had sight of a tenancy document dated 26th May 2024 in which clause 1(2) of Schedule 4 states that the tenancy is a shared ownership tenancy with the tenant having an ownership of 50%.
7. Further, by way of clause 7 (2) – (4) inclusive it is stated that the rent is to include a variable service charge element.
8. Having regard to the landlord's letter dated 23 August 2023 and the Summary of Actual Service Charge, the Tribunal has concluded that there are two distinctive elements to the service charge.

9. The charge for ongoing services , which is understood to total £80.77 per month made up as follows:
 - a) £ 17.00 per month management;
 - b) £ 8.33 per month insurance and the remaining
 - c) £ 55.02 per month general services.
10. In addition to the £80.77per month, there is a further sum of £87.00 per month payable by way of a sinking fund.
11. These combine to make a total monthly service charge of £167.77 per month
12. It is noted that the tenant's repairing liability within the terms of the tenancy are:
To repair and paint the interior of the property as specifically defined in Clauses 3 (3) & (4)
13. On 10 June 2024 on the basis of papers and without a hearing, the Tribunal determined the fair rent of the above property at £984.17 including £167.77 service charge.

The Law

14. When determining a fair rent, the tribunal, in accordance with the Rent Act 1988 section 70, had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property. Section 70 is set out in the appendix below.
15. In *Spathholme Limited versus Chairman of the Greater Manchester etc. Tribunal (1995) 24HLR 107 and Curtis versus London Rent Assessment Tribunal (1999) QB 92* the Court of Appeal emphasised that ordinarily a fair rent is the market rent for the property discounted for “scarcity (i.e. that element of 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 that for the purpose of determining 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 Property

16. From Google Maps and information included on the rent register as well as information provided by the parties, the tribunal found as follows:
- (a) The property comprises a one bedroom purpose built flat in a small three storey block.
 - (b) From the rent register the accommodation is understood to comprise : lounge, bedroom, kitchen, bathroom/WC.

Valuation

17. From *Spathholme Limited vs Chairman of the Greater Manchester etc. Tribunal*, other registered rents are not relevant as a starting point because they are not market rents.
18. The Tribunal must first determine the market rent for the property of this size, in this location and in its current condition. It must also disregard the personal circumstances of either party. The Tribunal notes that the rent officer adopted a starting point of £1,200.00 per month. Using its own general knowledge of the Greater London property market, the Tribunal disagrees with the rent officer and considers that the market rent for the property of this size, in this location and in good condition with the usual white goods, carpets and decorated to a good standard, would be £1,300.00 per month. However, all white goods, carpets and curtains are presumed to be the property of the tenant. In addition, a tenant of a Rent Act property has more onerous repairing obligations than those under an assured shorthold tenancy. The Tribunal therefore made the following deductions from the market rent of £1,300.00 per month.

Market rent £1,300 per month

Less deductions for:

- Tenant's repairing liability
- no white goods
- the provision of carpets and curtains;
- unmodernised kitchen

Less 21.5% = £ 279.50 per month

Adjusted rent = **£1,020.50 per month**

19. The Tribunal found that there was substantial scarcity in the locality of Greater London having taken judicial notice of long housing association and local authority waiting lists in Greater London. It therefore made a deduction in respect of scarcity of 20% (£204.10 per month) from the adjusted market rent to reflect this element. This left the final rental figure of £816.40 per month.
20. The Tribunal is then required to apply the Rent Act (Maximum Fair Rent) Order 1999. The calculation was included on the decision sheet and produced a maximum fair rent of £816.40 per month , plus services of £167.77 per month totaling £984.17 per month .
21. This figure is then adjusted to reflect proportional ownership

£984.17 pm

X 50% **£492.08 pm**

22. The Tribunal must register the lower of the adjusted market rent or maximum fair rent as the fair rent of the property. In this instance, the Adjusted market rent produces a higher figure and the Tribunal therefore registered the rent at **£470.88 per** month with effect from 10 June 2024 being the date of the Tribunal decision.

Name: Mr J A Naylor FRICS FIRPM Valuer Chairman

Date: 13 June 2024

APPENDIX

Rent Act 1977

Section 70 Determination of Fair Rent

- (1) In determining, for the purpose of this part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwellinghouse, regard shall be had to all the circumstances (other than personal circumstances) and, in particular, to –
 - (a) the age, character, locality and state of repair of the dwellinghouse...F1
 - (b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture (F2 and)
 - (c) (F2(c)) any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy)

- (2) For the purpose of the determination, it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses 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.

- (3) There shall be disregarded:
 - (a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;
 - (b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy; by the tenant under the regulated tenancy or any predecessor in title of his;
 - (c) (d).....F3
 - (d) If any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of theirs or, as the case may be, any deterioration

in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with them, or any sub-tenant of theirs.

(e) F4 [(3a) in any case where under Part 1 of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay Council Tax in respect of a hereditament (“*the relevant hereditament*”) of which the dwelling-house forms part, regard shall also be had to the amount of Council Tax which, as at the date on which the application to the rent officer was made, was set by the billing authority –

(a) for the financial year in which that application was made, and

(b) for the category of dwelling within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of Council Tax payable shall be disregarded.

(3b) In subsection (3a) above –

“*hereditament*” means a dwelling within the meaning of Part 1 of the Local Government Finance Act 1992.

“*billing authority*” has the same meaning as in that part of the Act, and

“*category of dwellings*” has the same meaning as in Section 30(1) and (2) of that Act.]

(4) In this section “*improvement*” includes the replacement of any fixture or fitting.

[F5 (4a) in this section “*premium*” has the same meaning as in part IX of this Act and “*sum in the nature of a premium*” means –

(a) any such loan as is mentioned in Section 119 or 120 of this Act,

(b) any such excess over the reasonable price of furniture as is mentioned in Section 123 of this Act, and

(c) Any such advance payment or rent as is mentioned in Section 126 of this Act.]

(5)