



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

**Case reference** : **CAM/00MX/F77/2024/0007**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **19 Overdale Road, Chesham, HP5  
2DZ**

**Applicant (Tenant)** : **Mr Iqbal**

**Respondent (Tenant)** : **Paradigm Housing Group**

**Type of application** : **Determination of a fair rent under  
section 70 of the Rent Act 1977**

**Tribunal members** : **Peter Roberts FRICS CEnv**

**Date of Determination** : **27 April 2024**

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**DECISION**

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**Description of hearing**

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper determination described above as P:PAPERREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a fair rent of £194 per week effective from 27 April 2024 notwithstanding that the Landlord may charge a lower rent should they so wish.**

## **Reasons**

### **Background**

1. The Landlord made an application dated 13 June 2022 to register the rent of the Property at £172 per week. This application referred to a current rent of £117.73 per week which is below the previous registered rent of £164 per week. It therefore appears that the Landlord has charged the Tenant a discounted rent.
2. The Rent Officer registered a Fair Rent of £190 per week on 8 January 2024 effective from the same date. This was in lieu of the previous registered rent of £164 per week which was effective from 23 May 2019.
3. The Tenant objected by way of an email 18 January 2024. The matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued Directions on 24 January 2024, inviting the parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the Tribunal to consider.

### **The Property**

5. The Tribunal did not inspect the Property but relied upon the evidence provided by the Parties and publicly available information including, for example, Google images.
6. The Property comprises a semi-detached house dating from the 1960/70's of rendered brick and tile construction providing a living room and kitchen at ground floor level with two bedrooms and a bathroom at first floor.
7. The Property benefits from central heating and double glazing. There are also gardens to the front and rear but no driveway or garage. However, there is ample on-street car parking available.
8. The boiler was replaced by the Landlord in April 2019. In addition, the Landlord fitted the bathroom in February 2022.
9. The carpets and curtains belong to the Tenant.

### **The Law**

10. The relevant law is set out in section 70 of the Rent Act 1977 (the Act) and The Rent Acts (Maximum Fair Rent) Order 1999 (the Order).
11. Section 70 (1) of The Act provides that in assessing the rent:

*“regard shall be had to all the circumstances (other than personal circumstances) and in particular to—*

- i. the age, character, locality and state of repair of the dwelling-house,*
- ii. if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture and*
- iii. 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.”*

12. Section 70 (3) of the Act provides that:

*“...there shall be disregarded.*

- i. 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;*
- ii. 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*
- iii. 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 his 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 him, or any sub-tenant of his.”*

13. In addition, section 70 (2) of The Act requires the Tribunal to assume:

*“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.”*

14. This latter provision requires the Tribunal to assume that the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent; in effect, if such scarcity exists, the Tribunal is to adjust the rental figure so that the fair rent is not affected by it.

15. 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 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)."*

16. In considering scarcity under section 70 (2) the Tribunal recognised that:

*(a) "there are considerable variations in the level of scarcity in different parts of the country and that there is no general guidance or "rule of thumb" to indicate what adjustment should be made; the Tribunal therefore considers the case on its merits;*

*(b) terms relating to rent are to be excluded. A lack of demand at a particular rent is not necessarily evidence of no scarcity; it may be evidence that the prospective tenants are not prepared to pay that particular rent."*

17. Section 71 (1) of the Act provides that the registration of the rent takes effect from the date that the Tribunal makes its decision.

18. Fair rents are subject to a capping procedure under the Rent Acts (Maximum Fair Rent) Order 1999 which limits increases by a formula based on the increase in the Retail Price Index since the previous registration.

19. Section 72 (1) (b) of the Act provides that the registration of a rent takes effect:

*"...if the rent is determined by the appropriate tribunal, from the date when the tribunal make their decision"*

### **Representations – Tenant**

20. The Tenant's objection stated:

*"...I received a letter regarding a fair rent of £190 every week. I'm sorry but I have to object to the rent you have registered, when I joined this tenancy my rent was £126 every week which I pay every week and spoken to officer Ben and another officer they told me my rent will stay £126 every week. I cannot pay £190 which will be to much for me is this living crisis situations. I will take this further and I will be paying £126 every week not £190..."*

### **Representations – Landlord**

21. The Landlord completed the Reply Form to confirm the accommodation but did not provide any further comments or response to the Tenant's objection.

### **Determination**

22. It appears from the documents provided to the Tribunal that the Landlord charges a rent below that registered by the Rent Officer. In this regard, the previous registered rent was £164 per week but the Tenant appears to have been paying £117.73 per week. Furthermore, whilst the Landlord requested a revised registered rent of £172 per week and the Rent Officer decided upon

£190 per week, the actual rent being charged appears to have only been increased to £126 per week.

23. It is entirely open to the Landlord to charge a rent below that registered by Rent Officer or that determined by this Tribunal following a reference. However, the Tribunal is required to disregard the rent that may have been agreed between the Parties.
24. The Tribunal is unable to take into account the personal circumstances of the Parties. As such, the assessment of rent has no regard to the personal, financial or health circumstances of either party both of whom are considered to be hypothetical. The Tribunal has therefore had regard to hypothetical, willing parties in the open market. The ownership costs arising to the actual Landlord are therefore irrelevant to this exercise.
25. Having determined that the parties to the assumed transaction are hypothetical, the next step, as set out in the Spath case as referred to above, is to determine the rent which a landlord could reasonably expect to obtain for the Property in the open market if it were let today in the condition and on the terms now usual for open market lettings.
26. The rent currently paid and/or registered is not relevant to this exercise. As such, the Tribunal has not relied upon the previous rent in any way and has disregarded historic evidence/determinations.
27. The Tribunal is of the opinion that, having regard to the location, configuration and the nature of the Property together with the lack of car parking but taking into account the Tenant's alterations, the current unadjusted open market rent would, if the Property was fully modernised, be in the region of £1,200 per month.
28. Having calculated the market rent, it is then necessary to make deductions on account of "value sensitive" Tenant's alterations and the additional obligations (i.e., decoration and maintenance) that do not typically apply to modern lettings.
29. The main "value sensitive" items comprise the lack of a modern kitchen fit out (10%), carpets (5%) and curtains (2.5%).
30. A further adjustment is required to account for the fact the Tenant has carried out the interior decoration whereas modern open market lettings do not typically include specific redecorating obligations.
31. Having taken all these matters into account, a total allowance of 20% is considered to be appropriate.
32. The Tribunal considers a scarcity allowance of 10% to be appropriate on this occasion.

33. Having fully considered all matters relevant to this case, the Tribunal therefore considers the Fair Rent to be £840 per month which equates to £194 per week.
34. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent, details of which are attached to this Decision, or the Fair Rent.
35. As set out above, the capped rent is determined by a formula that has regard to the increase in the Retail Price Index since the date of the last rent registration.
36. The Tribunal notes that the previous rent detailed on the Rent Register was £164 per week as registered on 1 May 2019. The calculated capped rent as at the date of this Determination is therefore £225.50 per week.
37. The Fair Rent is below the capped rent. Therefore, the Fair Rent of **£194 per week** applies.
38. The Tribunal also directs that the revised rent takes effect from the date of this Determination.
39. The Rent Officer's assessment is therefore of no effect having been supplanted by this Determination.
40. This Determination does not prevent the Landlord from charging a reduced rent should they so wish.

**Name:** Peter Roberts FRICS CEnv

**Date:** 27 April 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).

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