



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

Case reference : **CAM/00MD/F77/2024/0018**

HMCTS code : **P:PAPERREMOTE**

Property : **124 Arborfield Close, Slough,
Berkshire, SL1 2JW**

Applicant (Tenant) : **Ms Suad Abdillahi**

Respondent (Landlord) : **Karibu Community Homes**

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 : **22 August 2024**

DECISION

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 £261.50 effective from 22 August 2024.

Reasons

Background

1. The Landlord made an undated application to register the rent of the Property at £210 per week.
2. The Rent Officer registered a Fair Rent of £214 per week on 29 April 2024 effective from 29 April 2024. This was in lieu of the previous rent of £190 per week which was registered on 18 March 2022 and effective from 18 March 2022.
3. The Tenant submitted an objection by email dated 21 May 2024 which was referred to the First Tier Tribunal by the Rent Officer on 21 May 2024.
4. The Tribunal issued Directions on 17 June 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 has not inspected the Property but has relied upon the documents submitted by the Parties together with records in the public domain included Google Earth images.
6. The Property comprises an end terraced three storey property providing a garage together with a utility room, WC and entrance at ground floor, lounge and kitchen on the first floor and three bedrooms together with a bathroom on the second floor. It benefits from central heating and double glazing but the Tenant has provided carpets, curtains and white goods. There is a garden to the rear

The Law

7. 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).
8. 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.*”

9. 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.*”

10. 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.”

11. 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.

12. 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).”*

13. 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.”*

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

15. 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.

16. 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

17. The Tenant’s objection concerns her ability to pay the proposed rent.

Representations –Landlord

18. The Landlord emailed the Tribunal on 25 July 2024 advising that the rent charged is £139.67 per week which is considered to be £2 less than the average rent for three bedroom property in the locality.

19. The Tribunal noted that the current rent of £139.67 per week has been charged since April 2024 and that, previous to this, the rent was £129.68 per week. It has therefore increased by 7.7%.

Determination

20. The Tribunal understands that the Landlord is a Registered Provider and is therefore subject to Government Regulations that cap any increase in the rent to be charged by the Landlord by CPI plus 1%. The total permitted increase for 2024/2025 is therefore 7.7%.

21. In this regard, the Tribunal notes that the rent up to 31 March 2024 was £129.68 per week which was increased to £139.67 per week. It is therefore the case that the Landlord has correctly applied an increase of 7.7%. The Landlord cannot, therefore, charge more than £139.67 per week with effect from 1 April 2024.

22. These proceedings are therefore only relevant if the assessed Fair Rent is determined to be below £139.67 per week.

23. The rent payable by other tenants of social housing provided by Registered Providers is not relevant to this matter hence whilst the Tribunal notes the clear difference in rent being paid by the Tenant relative to their neighbour this is not a matter than can be taken into account not least as the Tribunal has not been provided with full details as to dates at which those leases commenced and an explanation as to how the rent(s) have been calculated.
24. In assessing the Fair Rent 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 Parties have not provided any evidence of rental value. The Tribunal has therefore relied upon its own experience and knowledge of matters having regard to the rural location of the Property, its proximity to nearby towns and villages and the availability of public transport.
28. The Tribunal is of the opinion that, the Property would, if it was fully modernised commensurate with market expectations, attract a rent in the region of £415 per week (£1,800 per month).
29. The Tribunal has made deductions to account for the fact the Tenant has carried out the interior decoration and repair whereas modern open market lettings do not typically include redecorating obligations (5%). In addition, the Tenant has provided carpets/rugs and curtains (5%).
30. Having taken all these matters into account, a total cumulative deduction of 9.69% is considered to be appropriate.
31. It is apparent that there is a shortage of similar property available on the market such that rental values would be pushed up through a lack of supply relative to demand. However, the Tribunal is required to assume that there is an adequate supply of alternative similar housing available and to discount the rent back to the level that would be expected if supply matched demand.
32. It is therefore the case that whilst market rents increase as a result of scarcity in the marketplace, Fair Rents are assessed on the basis that there is no scarcity.

33. In this situation it is clear that there is a scarcity of alternative accommodation such that a scarcity allowance is warranted. The Tribunal has therefore applied a further deduction of 10%. This is considered to adjust the rent back to that which would apply if there was adequate supply to meet demand.
34. Having fully considered all matters relevant to this case, the Tribunal therefore considers the Fair Rent to be £337.62 per week (£1,463 per month).
35. 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.
36. 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.
37. The Tribunal notes that the previous rent detailed on the Rent Register was £190 per week per annum effective from 18 March 2020. The calculated capped rent as at the date of this Determination is therefore £261.50 per week.
38. The Fair Rent is above the capped rent. Therefore, the Capped Rent of **£261.50 per week** applies.
39. The Tribunal also directs that the revised rent takes effect from the date of this Determination.
40. The Rent Officer's assessment is therefore of no effect having been supplanted by this Determination.
41. In addition, this Determination does not over-ride the Rent Standard in respect of the rent that can be charged by the Landlord.

Name: Peter Roberts FRICS CEnv

Date: 22 August 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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