



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

Case reference : **BIR/OOCT/F77/2024/0025**

Property : **8 Dursley Close
Solihull
Birmingham
B92 8RA**

Applicant : **West Ella Estates Ltd
(Previously Northumberland and Durham
Property Trust)**

Representative : **None**

Respondent : **Mrs M Wilson**

Representative : **None**

Type of application : **Application under Section 70 of the Rent
Act 1977 by the Applicant against the rent
assessed for the property by the Rent
Officer**

Tribunal members : **Mr G S Freckelton FRICS (Chairman)
Mrs J Rossiter MBA MRICS
Mrs K Bentley**

Inspection/Hearing : **Neither party requested an inspection or
hearing**

**Date of original
decision** : **31st October 2024**

DETAILED REASONS

BACKGROUND

1. On 12th March 2024, the Applicant Landlord applied to the Rent Officer for registration of a fair rent of £807.30 per month for the property 8 Dursley Close, Solihull, Birmingham, B92 8RA. The rent payable at the time of the application was stated as being £690.00 per month.
2. The rent was previously registered at a rental of £690.00 per month with effect from 8th June 2022 following a registration by the Rent Officer.
3. The Rent Officer registered a rental of £740.00 per month with effect from 8th June 2024.
4. By letter dated 21st May 2024, the Applicant objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. The Tribunal made a determination of the rent payable on 31st October 2024 and these Detailed Reasons are given in response to a request for same by the Applicant.

INSPECTION

6. Neither party requested the Tribunal to carry out an inspection of the property and the determination was therefore made based upon the submissions received by the Tribunal.
7. Based on the submissions provided, the Tribunal understands that the property comprises of a semi-detached house with one reception room and kitchen on the ground floor. On the first floor the landing leads to three bedrooms and bathroom.
8. There are gardens, a car parking space, store and outside W.C.
9. The Tribunal understands that the property is modernised and has central heating.

EVIDENCE

10. The Tribunal received written representations from the Respondent. These were copied to the Applicant. No submissions were received from the Applicant.
11. Neither party requested a hearing and the matter was therefore dealt with by a paper determination.

THE RESPONDENT'S SUBMISSIONS

12. The Respondent submitted that she had lived in the property for 43 years and had never been in arrears. She was of the opinion that the amount requested by the Respondent was unreasonable. If the rent increased, she would be compelled to obtain Housing Benefit.
13. The Respondent submitted photographs of the property which were appreciated by the Tribunal.
14. The Respondent further submitted that she had carried out improvements to the property including a fitted gas fire, greenhouse and shed, fitted wardrobes and

removed the wall between to make one reception room together with general upgrades.

THE LAW

15. When determining a fair rent, the Tribunal, 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.
16. In *Spath Holme Limited v Chairman of the Greater Manchester, etc. Committee* [1995] 28HLR107 and *Curtis v London Rent Assessment Committee* [1999] QB92 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 were usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

VALUATION

17. In the first instance, the Tribunal determined what rent the Applicant could reasonably be expected to obtain for the property in the open market if it were let today in the condition that is considered usual for such open market lettings. It did this by having regard to the Tribunal's own general knowledge of market rent levels in the area of Birmingham.
18. Having taken the various matters into consideration it determined that the open market value of the property in good condition would be the sum of £1,200.00 per month.
19. The Tribunal then considered the improvements carried out by the Respondent tenant and assessed these as follows:

Carpets and curtains	40.00
White goods	30.00
Gas Fire	10.00
Through Lounge/dining room	20.00
Fitted wardrobes	20.00
Greenhouse/shed	15.00
General upgrades	20.00
<u>Decorating liability</u>	<u>60.00</u>
Total	£215.00

20. The Tribunal then considered the question of scarcity. This is done by considering whether the number of persons genuinely seeking to become tenants of similar properties in the wider area of the West Midlands on the same terms other than rent is substantially greater than the availability of such dwellings as required by section 70(2) of the Rent Act 1977.

21. The Tribunal finds that many Landlords dispute that scarcity exists because they are of the opinion that the market is 'in balance'. Although Tenants do not in all cases have difficulty in finding accommodation this ignores the fact that it is the price of such accommodation which creates a balance in the market. Section 70(2) specifically excludes the price of accommodation from consideration in determining whether there are more persons genuinely seeking to become Tenants of similar properties than there are properties available. Although the rental market for Assured Shorthold properties may be in balance many potential Tenants may be excluded from it for various reasons such as age, poor credit history or because they are on housing benefit.
22. In this case the Tribunal, having carried out appropriate research, is satisfied that it is not appropriate to make a deduction for scarcity. This leaves a fair rent for the subject property of £985.00 per month (£1,200.00 - £215.00)
23. The Section 70 fair rent determined by the Tribunal is above the level of the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly the rent is therefore determined at £826.00 per month being the amount of the Maximum Fair Rent Order.

DECISION

24. The fair rent determined by the Tribunal for the purposes of Section 70 was accordingly £826.00 per month.

APPEAL

25. If either of the parties is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the upper Tribunal (Lands Chamber), **on a point of law only**. Any such application must be received within 28 days after these written reasons have been sent to them (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

Graham Freckelton FRICS
Chairman
First-tier Tribunal Property Chamber (Residential Property)