



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

**Case reference** : **BIR/OOFN/F77/2024/0636**

**Property** : **Flat 3  
19 Sandown Road  
Leicester  
LE2 2BJ**

**Applicant** : **Fitzrovia Properties**

**Representative** : **None**

**Respondent** : **Mr P Turner**

**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)  
Mr N Atherton MRICS**

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

**Date of original decision** : **3<sup>rd</sup> February 2025**

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**DETAILED REASONS**

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## **BACKGROUND**

1. On 22<sup>nd</sup> August 2024, the Applicant Landlord applied to the Rent Officer for registration of a fair rent of £410.00 per month for the property Flat 3, 19 Sandown Road, Leicester, LE2 2BJ. The rent payable at the time of the application was stated as being £365.00 per month.
2. The rent was previously registered at a rental of £365.00 per month with effect from 22<sup>nd</sup> November 2022 following a registration by the Rent Officer.
3. The Rent Officer registered a rental of £390.00 per month with effect from 22<sup>nd</sup> November 2024.
4. The Applicant objected to the rent determined by the Rent Officer. This was acknowledged by the Rent Officer on 22<sup>nd</sup> November 2024 and the matter was referred to the Tribunal.
5. The Tribunal made a determination of the rent payable on 3<sup>rd</sup> February 2025 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 self-contained converted flat comprising one bedsitting room, one kitchen and bathroom.
8. The Tribunal understands that the property has no central heating or double glazing.

## **EVIDENCE**

9. Directions were issued by the Tribunal on 27<sup>th</sup> November 2024. The Directions included a pro-forma reply form which the parties were encouraged to complete and return to the Tribunal (with a copy to the other party).
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 he was happy to accept the Rent Officers assessment although he would accept any figure between £390.00 - £410.00 per month.
13. The Tribunal understands from the Respondent's submission that carpets, curtains and white goods are provided by the Respondent tenant.

## THE LAW

14. 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.
15. 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

16. 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 Leicester.
17. 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 £575.00 per month.
18. The Tribunal then considered the lack of facilities provided by the Applicant landlord and improvements carried out by the Respondent tenant and assessed these as follows:

Double glazing	30.00
Central heating	35.00
Carpets and curtains	22.00
White goods	21.00
<u>Decorating liability</u>	<u>25.00</u>
Total	£133.00

19. This leaves a rental for the property of £442.00 per month (£575.00-£133.00).
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 Leicestershire 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 appropriate to make a further deduction of approximately 10% for scarcity which amounts to £44.00. This leaves a fair rent for the subject property of £398.00 per month (£442.00-£44.00).
23. The Section 70 fair rent determined by the Tribunal is below the level of the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect. Details of the maximum fair rent calculation have been provided.

### **DECISION**

24. The fair rent determined by the Tribunal for the purposes of Section 70 was accordingly £398.00 per month.
25. In the email requesting detailed reasons the Applicant landlord asks:
  - a) Is he required to charge £398.00 per month as determined by the Tribunal or the 'Maximum Fair Rent' of £418.00 per month (details of which have previously been given)?
  - b) What are the reasons for the difference between the 'Fair Rent' and the 'Maximum Fair Rent'?
26. For the avoidance of doubt the Tribunal confirms that it has determined the rental at £398.00 per month and that is therefore the maximum amount the Applicant landlord can charge. With regard to the differences between the fair rent and maximum rent, the Tribunal has explained these in paragraphs 18-23 above.

### **APPEAL**

27. 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)