



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

**Case Reference** : **MAN/00CG/F77/2023/0053**

**Property** : **1 Baxter Road, Sheffield, S6 1JF**

**Applicant Tenant** : **Mrs Doreen Slack**

**Respondent  
Landlord** : **Mrs Handan Cinar**

**Type of  
Application** : **Determination Of Fair Rent, Section 70 Of  
The Rent Act, 1977**

**Tribunal Members** : **Judge C. P. Tonge, LLB, BA  
Mrs S. A. Kendall, BSc, MRICS**

**Date of Decision** : **23 November 2023**

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**DECISION**

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## **Background**

1. On 14 February 2023 Mrs Handan Cinar, “the landlord” applied to the Rent Officer for registration of a fair rent of £250 per week in respect of 1 Baxter Road, Sheffield, S6 1JF “the property”. Mrs Doreen Slack, “the tenant” has been the tenant of the property since 1963.
2. The Rent Officer had previously registered a fair rent for the property of £36.50 per week, as a result of First-tier Tribunal decision dated 8 March 2021, “the 2021 case”.
3. In the 2021 case there was a dispute between the parties as to the effect of a deed of surrender, resulting in the Rent Officer holding a consultation hearing. The Rent Officer concluded that the deed of surrender did not prevent him from registering a fair rent on the property, pointing out that this issue could be placed before the County Court for a judgement upon the status of the tenancy, pursuant to section 141 of the Rent Act 1977.
4. The tenant referred the Registered Rent to the Tribunal, resulting in the registration of a fair rent of £36.50. The Tribunal is again required to consider a fair rent at this property and notes that after all this passage of time there has still not been an application, by either party to the case, to the County Court pursuant to section 141 of the Rent Act 1977. As such the Tribunal will set a fair rent, based on the last registered rent being £36.50 per week, registered in March 2021.
5. On 5 April 2023 the Rent Officer registered a fair rent, effective from the same date, for the property, of £47 per week. This fair rent was limited by the Rent Acts (Maximum Fair Rent) Order 1999.
6. The Rent Officer, on 18 May 2023, received an email from the landlord seeking to object to the fair rent of £47. This email referred to an earlier email said to be dated 12 April 2023. The Tribunal is not told whether or not that earlier email was received by the Rent Officer, but the case has been forwarded to the Tribunal for consideration as an objection by the landlord to the Registered rent of £47.
7. The Landlords case is that the rent should not be limited by the Rent Acts (Maximum Fair Rent) Order 1999. The tenant’s case is that the rent should not be increased at all, because of the deed of surrender.
8. Neither party requested a hearing.

## **Inspection of the property**

9. The Tribunal inspected the property, commencing at 11.05 am on 23 November 2023. The landlord and her husband were present as were the tenant who is now 93 years of age and partly sighted, accompanied by her son Mr J. Slack and her daughter, Mrs B. Evans. This was the first time that the Tribunal had been able to inspect the interior of the property because during the 2021 case an external inspection only was conducted due to Covid restrictions.
10. The property is an end of terrace of three houses. The property was built about 1880, it faces industrial units with new flats built to the side. The side of the property facing the new flats has an exterior door opening onto a very small, mainly hard surfaced area containing a garden shed. The side of the property that faces in the opposite direction towards some more recently constructed apartments has an exterior door into the garden area.
11. The property has some wooden window frames that need painting. The roof is slate that has been turnerised, covering it with a substance that is designed to enhance and prolong the roofs useful life span. This is a clear indication that the roof will soon need either extensive repair or replacement. The render on the walls is in places discoloured and requires attention. The wooden gutters are in need of attention and have foliage growing out of them at one point. The property does not have a garage or off road parking and the road is busy with commercial vehicles visiting the industrial units. There are now double yellow lines on the road outside the property that were not there during the 2021 case.
12. The property has three bedrooms one of which is in the attic, that is reached by stairs that commence on the first floor landing, this room has restricted head space due to the eaves in the attic ceiling. One of the first floor bedrooms gives access to stairs that lead to the attic storeroom having limited head room due to the eaves in the attic ceiling. The property has part double glazing, has central heating and is a bare let, without furnishing or white goods. There is a bathroom that has been converted from an office that at one time was part of the adjoining building in the terrace, it is now only accessible from the property. This conversion appears to have coincided with the office area being converted into 14 and 16 Baxter Mews.
13. When the tenant occupied this property 63 years ago the ground floor rooms were all paved with flag stones, there were some coal fireplaces, the kitchen had a pot sink and the property had no bathroom at all, the tenant using a tin bath. The tenant has improved the property by removing the flag stones and providing a floor, providing central heating and removing the open fires, fitting fires where needed, installing a bathroom, fitting cupboards in various places, installing part double glazing and a fitted kitchen. The boiler that provides domestic hot water to the central heating and taps has been fitted by a prior landlord as a replacement to the tenant's

boiler. The property is a bare let, with no furniture, curtains, light fitting, carpets or white goods.

14. There is damp effecting various walls, and the roof is turnerised (as it was during the inspection in 2021). This old roof will soon need replacing and is already letting damp into the attic storeroom.

### **Written evidence**

13. Both Parties submitted written evidence to the Rent Officer and to the Tribunal, these have been copied to the other Party.

### **The law**

In determining a fair rent the Tribunal, in accordance with section 70 of the Rent Act 1977, "the Act", has regard to all the circumstances, including the age, location and state of repair of the property. It also disregards the effect of (a) any relevant tenant's improvement and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in the title under the regulated tenancy, on the rental value of the property. The Tribunal must also take account (section 70 (1)(c)) of any premium, or sum in the nature of a premium paid on the grant, renewal or continuance of the tenancy.

In *Spath Holme Ltd v Chairman of the Greater Manchester. Committee* (1995) 28 HLR 107 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 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.)

Rent Acts (Maximum Fair Rent) Order 1999 (SI 1999/6)

Regulation 2 limits the amount that the fair rent can be increased from registration to registration, unless Regulation 2 (7) applies:

(7) This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in

response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.

### **Determination of the fair rent**

14. The written evidence deals mainly with the 2021 decision of this Tribunal, supporting or criticising it. That decision cannot now be challenged before this Tribunal, but either party to this case could have put an application before the County Court pursuant to section 141 of the Rent Act 1977, for this issue to be considered further and neither has party has done so. Due to the inaction of both parties in this respect the Tribunal simply sets a fair rent, which may increase the rent, but not over the present limit imposed by the Rent Acts (Maximum Fair Rent) Order 1999, capping the rent at £48.50 per week.
15. The Tribunal considers this property to be such that if I were let on the open market, in good condition, to an assured tenant it could be let at £175 per week. This is the notional open market rent.
16. However, this property is not in good condition. There are various walls in the property that are damp. The Tribunal will make a deduction from the notional open market rent of £5 per week to reflect this.
17. The roof is permitting rainwater to leak into the attic storeroom. The Tribunal will make a deduction from the notional open market rent of £5 per week to reflect this.
18. The rainwater gutters are clogged with grass growing in them, this will cause rainwater to overflow in heavy rain. The Tribunal will make a deduction from the notional open market rent of £5 per week to reflect this.
19. The property is a bare let with no furniture, curtains, light fitting, carpets or white goods. The Tribunal will make a deduction from the notional open market rent of £25 per week to reflect this.
20. The tenant has made improvements to the property as referred to above. The Tribunal makes deductions to the notional open market rent to reflect these as follows;

• Fitting a bathroom	£20
• Fitting a kitchen	£40
• Improvements to the sitting room floor and fireplace	£5
• Installing central heating	£20
• Installing part double glazing	£10
Subtotal for tenant's improvements	£95

21. That makes a total of £135 to be deducted from the notional open market rent. The Fair rent is therefore £40 per week.

### **The decision**

22. The fair rent determined by the Tribunal for the purposes of section 70 of the Rent Act 1977 is accordingly £40 per week.
22. Appeal against this decision involving points of law only are to the Upper Tribunal. Any Party wishing to appeal to the Upper Tribunal must, within 28 days of this decision being sent to the Parties, deliver to this First-tier Tribunal an application for permission to appeal against this decision. That application should include the grounds of appeal, stating what the point of law is that the appellant seeks to challenge, particulars of those grounds, identify the paragraphs of the decision that are challenged and state the outcome that is sought as a result of making the appeal.

Judge Tonge

12 January 2024

# MAXIMUM FAIR RENT CALCULATION

**LATEST RPI FIGURE** x  September 2023

**PREVIOUS RPI FIGURE** y  March 2021

**X**  **Minus y**  = **(A)**

**(A)**  **divided by y**  = **(B)**

**First application for re-registration since 1 February 1999** NO

**If yes (B) plus 1.075 = (C)**

**If no (B) plus 1.05 = (C)**

**Last registered rent\***  **Multiplied by (C) =**   
 \*(exclusive of any variable service charge)

**Rounded up to nearest 50 pence =**

**Variable service charge /NO**

**If YES add amount for services**

**MAXIMUM FAIR RENT =**  **Per**

## Explanatory Note

1. The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
2. In summary, the formula provides for the maximum fair rent to be calculated by:
  - (a) increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
  - (b) adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).

A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B).

The result is rounded up to the nearest 50 pence.

3. For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Committee's fair rent determination was made.

4. The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.