



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

**Case reference** : **CAM/34UH/F77/2024/0600**

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

**Property** : **124 Yarwell Court, Highfield  
Crescent, Kettering,  
Northamptonshire, NN15 6JT**

**Applicant (Landlord)** : **Accent Housing Limited**

**Respondent (Tenant)** : **Mrs J Davis**

**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** : **6 January 2025**

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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 Gross Fair Rent (i.e., inclusive of Service Charges) of £488.64 per month effective from 6 January 2024.**

## **Reasons**

### **Background**

1. The Landlord made an application dated 27 June 2024 to register the rent of the Property at £483.21 per month. This was stated to be inclusive of a variable Service Charge of £69.14 per month.
2. The Rent Officer registered a Fair Rent of £445.50 per month inclusive of a variable Service Charge of £69.14 per month on 21 August 2024 effective from 19 September 2024. This was in lieu of the previous inclusive rent of £415 per month which was registered on 9 August 2022 and effective from 19 September 2022.
3. The Landlord submitted an objection dated 19 September 2024.
4. The Tribunal issued Directions on 4 October 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 including Google Earth images.
6. The Property comprises a self-contained first-floor flat within a three storey development constructed circa 1970's and provides a living room, kitchen, bedroom and bathroom. There is no lift but there is heating and double glazing, There is no garden but there is private car parking.

### **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 did not return a completed Reply Form nor engage with these proceedings

### **Representations –Landlord**

18. The Landlord’s objection simply stated:

*“The Association would like to appeal against the **rent** set for the property listed above.”*

19. The Landlord did not return a completed Reply Form nor provide any explanation for its objection nor provide evidence in support thereof.

### **Determination**

20. The Tribunal has been put in the position of having to consider this matter without any explanation being provided by the Landlord as to the grounds of objection and supporting evidence.

21. For clarity, the Tribunal has only considered the rent payable and does not have jurisdiction under these proceedings in respect of the Service Charge.

22. 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.

23. 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.
24. 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.
25. 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 location of the Property together with the lack of lift access and outside space which are all factors that would render the Property less attractive compared to otherwise similar properties.
26. The Tribunal is of the opinion that, the Property would, if it was fully refurbished and modernised commensurate with market expectations, attract a rent in the region of £675 per month. However, this before account is taken of the need for refurbishment and disregard of Tenant's improvements.
27. The Tribunal has noted that, according to the Rent Officer, the Tenant has been in occupation since 21 September 1984. As no evidence has been provided to indicate otherwise, the Tribunal considers that it is reasonable to assume that the Landlord has not carried out any decoration or modernisation of the Property since then.
28. On the basis that any Tenant's improvements are to be disregarded it therefore follows that the Property is assumed to remain in the condition it was in at commencement of the tenancy such that it has become dated comparative to equivalent private sector flats and would require modernisation particularly in respect of the kitchen and bathroom.
29. It is also reasonable to assume that the White Goods have been provided and maintained by the Tenant for the same reasons.
30. In this context, the Tribunal has deducted 15% on account of the need to replace the kitchen and bathroom including White Goods, 10% to account for the Tenant providing floor coverings and curtains and a further 5% to account for the Tenant carrying the liability for redecoration in comparison to modern leases which typically do not require the tenant to redecorate. This reduces the rent to £490.50 per month.
31. The Tribunal considered that there is a scarcity of supply of one-bedroom flats for rent in the general location at the present time and therefore considers that a scarcity allowance of 10% is appropriate on this occasion.
32. Having fully considered all matters relevant to this case, the Tribunal therefore considers the net Fair Rent to be £441.50 per month.

33. The Tribunal appreciates that its assessment of the net rent at £441.50 per month is higher than the Rent Officer's assessment at £376.36 per month and the Landlord's contended rent of £414.07 per month but would point out that the Tribunal's assessment is current whereas the Rent Officer and the Landlord's assessments were as at August 2024 and June 2024 respectively since when rents have continued to increase.
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 net rent detailed on the Rent Register was £356.98 per month effective from 19 September 2024. The calculated capped net rent as at the date of this Determination is therefore £419.50 per month.
37. The net Fair Rent is above the Capped Net Rent. Therefore, the Capped Net Rent of £419.50 per month applies.
38. The Gross Rent (inclusive of £69.14 per month Service Charge) is £488.64 per month.
39. The Tribunal also directs that the revised Gross Rent of £488.64 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 such that the passing rent will continue at £415 per month increasing to £488.64 per month from the date of this Determination.

**Name:** Peter Roberts FRICS CEnv

**Date:** 6 January 2025

### **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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