

Notice of the Tribunal Decision

Rent Act 1977 Schedule 11

Address of Premises

2 Old Hall Cottage, Rostherne Lane,
WA16 6RT

The Tribunal members were

Colin Green, Ken Kasambara

Landlord

Tatton Estates

Tenant

Edward Wakefield

1. The fair rent is £ Per (excluding water rates and council tax but including any amounts in paras 3&4)

2. The effective date is

3. The amount for services is £ Per

4. The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is
£ Per

5. The rent is to not be registered as variable.

6. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply (please see calculation overleaf).

7. Details (other than rent) where different from Rent Register entry

8. For information only:

The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999, because it is below the maximum fair rent of £9,783.15 prescribed by the Order.

Chairman

Colin Green

Date of Decision

11.02.25

MAXIMUM FAIR RENT CALCULATION

LATEST RPI FIGURE x

PREVIOUS RPI FIGURE y

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.



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

Case Reference : MAN/00EQ/F77/2024/0609

Property : 2 Old Hall Cottage, Rostherne Lane, WA16 6RT

Landlord : Tatton Estate

Tenant : Edward Wakefield

Type of Application : Determination of a fair rent under Section 70 of the Rent Act 1977

Tribunal Members : Colin Green (chairman) and Ken Kasambara

Date and venue of hearing : Determination on the papers following an inspection of the Property and hearing

Date of Decision : 11 February 2025

REASONS FOR DECISION

DECISION

A fair rent of £8,500.00 per annum was determined by the Tribunal on 11 February 2025 with effect from the same date.

REASONS

Preliminary

1. On 8 August 2024, an application for registration of a fair rent for 2 Old Hall Cottage (“the Property”) was received by the Rent Officer from Tatton Estate (“the Landlord”). The Property is tenanted by Edward Wakefield (“the Tenant”). There is no service charge.
2. A rent of £8,890.00 per annum was determined by the Rent Officer on 3 October 2024 with effect from the same date.
3. By an email of 21 October 2024, James Wakefield, one of the Tenant’s sons, objected to the registered fair rent on behalf of his father and requested the Rent Officer to refer the matter to the Tribunal.

Inspection

4. An inspection of the Property was undertaken on 11 February 2025 by the Tribunal members together with The Tenant’s two sons and his wife. The Property is a terraced house built in the late nineteenth/early twentieth century in the village of Rostherne, which forms part of a block of properties and that has an unusual disposition of rooms. On the ground floor there is a living room, kitchen and utility room and on the first floor three bedrooms, and a bath/shower-room/WC. There is a large garden and also a basement although it is unclear if it forms part of the demise, but for safety reasons it is not used. The letting is unfurnished, and no white goods were provided.

5. The Tribunal noted no significant disrepair, but during the period of approximately 55 years that the Tenant and his wife have lived at the Property, there have been extensive improvements carried out in each of the rooms, for example: in the bathroom, including a new shower, bath tub, wc, etc. a new kitchen, installation of central heating, gas connection, electrics, gas fire / fire surround, that were all installed by Tenant.

Evidence

6. Written submissions were received from Fisher German LLP on behalf of the Landlord, in a letter of 29 November 2024, which the Tribunal will address below. Neither party requested a hearing, so that following the inspection the Tribunal convened to determine a fair rent.

Law

7. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, Section 70:
 - 7.1. Has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
 - 7.2. Disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
 - 7.3. Assumes (as required by s70(2)) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words that the effect of such “scarcity” on rental values is not reflected in the fair rent of the subject property.

8. 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 that section 70 means:
 - 8.1. that ordinarily a fair rent is the market rent for the subject property discounted for “scarcity”, and
 - 8.2. 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 these comparables and the subject property)
9. Thus, once the market rent for the Property has been determined by the exercise above, that rent must be adjusted, where necessary, for any scarcity.
10. The Tribunal must also consider the application of the provisions of the *Rent Acts (Maximum Fair Rent) Order 1999* by calculating the maximum fair rent applicable to the Property in accordance with the formula contained in the Order.

Valuation

11. In the light of the above, the Tribunal determined first what rent the Landlord could reasonably be expected to obtain for the Property in the open market if it were let now in the condition that is considered fit and usual for such an open market letting
12. The matters presented by Fisher German were as follows: First, a formula has been applied, after apparently seeking guidance from the Rent Officer on rent increases for previously registered rents, described as a maximum fair rent calculation – although this description is misleading as it is not the same as the maximum fair rent calculation prescribed under the 1999 Order, which the Tribunal calculated at £9,783.50. The previous registered rent of £7,540.00 per

annum (and not £7,450.00 as stated in the letter) was registered in November 2021.

$$[(RPI \text{ Nov } 21 - RPI \text{ Sept } 2004) / RPI \text{ Nov } 2021] + 5\%$$

This produces the following:

$$[(388.6 - 31.43) / 31.43] + 5\% = 25\% \text{ increase.}$$

Applying a 25% increase to the previous registered rent (stated to be £7,450.00) produces £9,312.50, which is higher than the £8,990.00 registered by the Rent Officer on 3 October 2024, an 8.3% increase rather than 6.4%.

13. The Tribunal does not consider this formula and calculation of rental increase helpful. Apart from the necessary calculation of the maximum fair rent using the statutory formula (which determines the cap on the fair rent) the use of general formulae is not thought an appropriate means of determining a market rent for a specific property. There is no reason why the rent should be at or about the maximum fair rent, however calculated. Nor is this a reliable guide for testing the final figure for the fair rent. The use of suitable comparables is a better method for determining market rent.
14. Second, there is an anonymised schedule of comparable rents for three-bedroom properties in the Rostheme/Knutsford area. Six fair rents are listed, each of a smaller size than the Property. The square metre size of the Property (131) presumably includes the large garden and may include the cellar). These six fair rents range from £6,500.00 to £9,100.00 per annum, although the square metre size of those six comparables does not necessarily correspond to specific differences in rent.

15. In determining an opening figure for the Property, the Tribunal does not consider it appropriate to use other registered rents as comparables. The fair rents are likely to be after adjustments have been made from a higher, opening figure and as noted above, the opening figure should be a market rent before any adjustments.
16. The three further properties listed in the schedule are Assured Shorthold Tenancies which the Tribunal accepts can be relevant in determining an opening market rent, again all smaller in size from the Property, ranging from £17,940.00 to £18,000.00 per annum. Apart from square metre size no further details of these properties are provided and the Tribunal was not satisfied that determining a market rent on a £/sqm basis was a dependable exercise given that not all square metres at a property are necessarily of equal value.
17. The Tribunal also considered the following comparables, all three-bedroom terraced properties:
 - 17.1. Longbridge, Knutsford WA16 – £1,250.00 per month (£15,000.00 per annum);
 - 17.2. Hayfields, Knutsford WA16 – £1,200.00 per month (£14,400.00 per annum);
 - 17.3. Scyrlbell Close, Lymm WA13, a three storey house – £1,500.00 per month (£18,000.00 per annum).
18. Having regard to those comparables and the three Assured Shorthold Tenancies mentioned in Fisher German's submissions (although no details beyond sqm are mentioned), the Tribunal considered that the open market rent for the Property in the condition referred to in paragraph 11 above would be £15,000.00 per annum including white goods, carpets, and curtains.

19. To this figure certain deductions were made: £5,000.00 in respect of white goods, and the extensive improvements that have been carried out to the Property, and 10% (£1,500.00) to reflect the scarcity of property in locations of this kind at the present time. This produces a final figure of £8,500.00 per annum.
20. Regarding the capping provisions of the 1999 Order, after effecting the appropriate calculation the Tribunal determined that the fair rent assessed above was less than the maximum fair rent for the Property, which was calculated to be £9,783.50 per annum.