



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

Case reference : **CAM/38UC/F77/2025/0005**

HMCTS code : **P:PAPERREMOTE**

Property : **8 Churchill Road, Kidlington,
Oxfordshire, OX5 1BN**

Applicant (Landlord) : **Dorrington Residential Limited**

Respondent (Tenant) : **S N Rea**

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 : **7 May 2025**

DECISION

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 Fair Rent of £820.45 per month effective from 7 May 2025.

Reasons

Background

1. The Landlord made an application dated 11 November 2024 to register the rent of the Property at £10,771.20 per annum (i.e., £897.60 per month). This was stated to be exclusive of any variable Service Charge.
2. The Rent Officer registered a Fair Rent of £783 per month on 31 December 2024 effective from the same day. This was in lieu of the previous rent of £748 per month which was registered on 27 October 2022 and effective from the same date.
3. The Landlord submitted an undated objection and contended for a rent of £1,225 per month.
4. The Tribunal issued Directions on 31 January 2025, 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 inspected the Property on 24 March 2025.
6. The Property comprises a detached house of rendered brick and tile construction together with an external garage, driveway and gardens. The accommodation includes a lounge and kitchen at ground floor and three bedrooms with a family bathroom at first floor level. The windows are a mix of single and double glazing.
7. The carpets date from the late 1980's and are overdue replacement. There is evidence of penetrating damp from leaking downpipes and gutters and the extent of cracking indicates ongoing movement. The general fit out is very dated and in poor condition.

The Law

8. 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).
9. 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.”*

10. 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.”*

11. 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.”

12. 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.

13. 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).”*

14. 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.”*
15. Section 71 (1) of the Act provides that the registration of the rent takes effect from the date that the Tribunal makes its decision.
16. 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.
17. 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

18. The Tenant provided a bundle of photographs of the Property together with a video, a statement in respect of the valuation approach and a copy of an email dated 17 February 2025 from the Housing Standards Team at Cherwell District Council which highlighted the following issues:
- a. Damp in the living room
 - b. Dated and poor flooring
 - c. Damage to the kitchen windows
 - d. Cracking throughout the Property
 - e. Missing fence panels
 - f. Garage in poor condition

Representations –Landlord

19. The Landlord’s objection was submitted by Ms Oram of Savills plc who provided a Fair Rent Appeal Statement.
20. This Statement referred to the letting of two terraced 3 bedroom properties at £1,500 pcm and £1,600 pcm respectively together with a 3 bedroom detached property let for £1,750 pcm. Ms Oram concluded that:

“The rental range for 3 bed properties in the area are (sic) in the region of £1,500 to £1,750 pcm.

Assuming a rental value of £1,625 per month having taken into [account] the individual characteristic[s] and condition of 8 Churchill Road we would assume deductions of say £400 per month bringing the rental level to £1,225 per month.”

21. A rental value of £1,225 per month equates to £14,700 per annum which compares to the rent requested by the Landlord in the Application for Registration of Fair Rent of £10,771.20 per annum which equates to £897.60 per calendar month.
22. In effect, the Landlord has requested a rent of £897.60 per month, the Rent Officer determined £783 per month and Ms Oram (on behalf of the Landlord) proposed £1,225 per month.

Determination

23. 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.
24. 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.
25. 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.
26. It is also not relevant whether or not the Landlord considers that the rent paid is sufficient to fund its liabilities and/or repair obligations. The cost to the Landlord of putting the Property into a suitable state and complying with its obligations is not a matter for consideration in determining the rent payable.
27. It is unlikely that the Property would be lettable in its current condition as it requires refurbishment, modernisation and redecoration. In addition, the damp issues and cracking require attention. Nevertheless, the Tribunal is required to assume that, if the Property was vacant and to let, it would be lawful for the Landlord to seek a tenant who was prepared to take occupation in exchange for a reduction relative to the rents paid for other properties that are in a condition commensurate with market expectations and requirements.
28. The Tenant may have their own personal reasons for paying a certain level of rent in order to remain in occupation despite the identified issues but, as has

already been set out, the Parties to the assumed letting are hypothetical. The rent that the Tenant might be prepared to pay to remain in occupation, is therefore of no assistance in considering the rent that would be paid by a hypothetical incoming tenant who is under no compulsion to take occupation. In essence, it cannot, in the absence of compelling evidence, be automatically assumed that the actual Tenant would be the hypothetical tenant.

29. The Tribunal notes the evidence provided by Ms Oram and, having applied its own knowledge and experience in such matters concludes that, if the Property was full refurbished, refitted, in repair and decorated in accordance with market expectations, it would be capable of attracting a rent in excess of £1,700 pcm. However, as already noted, the Property falls well short of these standards hence a significant discount is required to account for:
 - a. The lack of a modern kitchen
 - b. The lack of a modern family bathroom
 - c. Partial double glazing
 - d. Penetrating damp
 - e. Mould
 - f. Cracking
 - g. Extremely worn carpets and curtains
 - h. Poor energy efficiency
 - i. Urgent need for decoration throughout
 - j. General disrepair
30. The Tribunal has therefore made a total deduction of 46% to account for these matters. The Tribunal also notes that there is a scarcity of supply of similar properties in the general location at the present time and therefore considers that a scarcity allowance of 10% is appropriate on this occasion. These adjustments result in a rental value of £820.45 per month effective from 7 May 2025.
31. The Tribunal appreciates that this is an increase over and above the rent of £783 per month as determined by the Rent Officer but, by way of assistance, would point out that the Rent Officer's determination was effective from 31 December 2024 since when the rental values have continued to increase.
32. Having fully considered all relevant matters, the Tribunal considers the Fair Rent to be £820.45 per month.
33. 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.
34. 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.
35. The Tribunal notes that the previous net rent detailed on the Rent Register was £748 per month effective from 27 October 2022. The calculated capped net rent as at the date of this Determination is therefore £868 per month.

36. The Fair Rent is below the Capped Net Rent. **Therefore, the Fair Rent of £820.45 per month applies.** The Tribunal also directs that the revised Rent takes effect from the date of this Determination.

Name: Peter Roberts FRICS CEnv

Date: 7 May 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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