



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

**Case Reference** : **CAM/26UF/F77/2021/0032**

**Property** : **16 Caslon Way, Letchworth, Hertfordshire  
SG6 4QL**

**Applicant (Landlord)** : **Mr Terry Feldman**

**Respondent (Tenant)** : **Mr D Goodyear**

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

**Tribunal Members** : **Judge JR Morris**

**Date of Decision** : **23<sup>rd</sup> December 2021**

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**DECISION**

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**DECISION**

1. The Fair Rent for the Property is determined to be £188.00 per week which is the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999 effective from the 23<sup>rd</sup> December 2021.

**REASONS**

2. No inspection of the Property was scheduled due to measures introduced to combat the spread of the Coronavirus (COVID-19) and to protect the parties and the public, particularly those at risk. The Procedural Judge issued Directions on 12<sup>th</sup> October 2021 saying:

*The tribunal will seek to determine the Fair Rent for the Property during the week commencing 13<sup>th</sup> December 2021 based on the written submissions by the parties. The Tribunal does not intend to hold an oral hearing.*

*However, either party may request a hearing and any request should be made to the tribunal copying the request to the other side by 8<sup>th</sup> November 2021.*

3. A request for an oral hearing by way of a telephone hearing was received and the parties were informed on 30<sup>th</sup> November 2021 that a hearing would take place on

14<sup>th</sup> December 2021 at 13.30 and were provided with the telephone number and code to participate. The Tribunal Judge opened the conference call at 13.30 on 14<sup>th</sup> December 2021 but neither party joined the hearing. The conferencing system had operated effectively earlier in the day. The hearing was therefore reconvened on 23<sup>rd</sup> December 2021 at 10.00. The Tribunal Judge opened the conference call at 10.00 on 14<sup>th</sup> December 2021 but neither party joined the hearing. The Tribunal Judge and Clerk tested the ability of a party to enter the hearing by using the number and codes provided to the parties and they operated effectively.

## **THE PROPERTY**

4. Attached to the Directions was an Information Sheet and a Reply Form which the parties were encouraged to complete in order to provide details about the type, accommodation and features of the Property. The Tenant did not complete the form. The Landlord's form referred the Tribunal to the Local Authority's Schedule of Works and Specifications that had been provided and the description of the Property on the Rent Register except that he said the register should include a garage in the description. The Tribunal added to the Rent Register description information obtained from the Internet.

### Description

According to the Rent Register and the Landlord's Representations, and the Internet, the Property is a two-storey end of terrace house with brick elevations under a concrete tile roof. The evidence adduced by the Landlord (referred to below) showed the Property to have new upvc double-glazed windows and front door. The Property also has upvc rainwater goods. There is a small garden to the front and a large garden to the rear. There is a driveway providing car parking for one car and a garage.

### Accommodation

The Property comprises a living room and kitchen on the ground floor and three bedrooms and a shower room with wash hand basin and w.c. on the first floor. The evidence adduced by the Landlord (referred to below) showed the bathroom to have been modernised. The Rent Officer stated that the kitchen was unmodernised.

### Services

The evidence adduced by the Landlord (referred to below) showed there to be a new gas fired central heating system providing space and water heating. The Property has mains electricity, gas, water and drainage.

### Furnishing

The Property is let unfurnished and carpets, curtains and white goods are not provided.

### Location

The Property is situated in a residential area on the edge of Letchworth Garden City centre where there is a range of amenities.

## **THE TENANCY**

5. The Tenancy is regulated under the Rent Act 1977 and commenced prior to 1989. As a Tenancy not being for a fixed period of 7 years or more, s11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs.

## **THE REFERRAL**

6. A rent of £165.50 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, was registered on 1<sup>st</sup> July 2019 and effective from 30<sup>th</sup> July 2019, the uncapped rent being £167.00. The Landlord by a notice in the prescribed form received by the Rent Officer on 5<sup>th</sup> July 2021 proposed a new rent of £200.00 per week. On 20<sup>th</sup> August 2021 the Rent Officer registered a rent effective from that date of £182.50 per week, which was the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £202.00 per week. On 13<sup>th</sup> September 2021 the Landlord referred the Rent Officer's assessment to the Tribunal.

## **THE LAW**

7. The Law relating to these reasons is contained in section 70 of the Rent Act 1977.

## **REPRESENTATIONS**

8. The Tenant did not make any representations.
9. The Landlord made written representations which are summarised as follows:  
There is a garage at the Property which the Rent Officer did not take into account. Also, since the determination in July 2019 the following improvements have been made to the Property by means of a grant by the North Hertfordshire District Council ("the Local Authority") (copy of the Local Authority's Schedule of Works and Specifications was provided):
  - (a) The installation of full central heating;
  - (b) New windows throughout;
  - (c) A new front door;
  - (d) A completely renovated bathroom to cater for the needs of the Tenant.
10. The Landlord's referral was based upon whether the change in the condition of the dwelling house as a result of repairs or improvements by means of a grant by the North Hertfordshire District Council could be reflected in the rent thereby exempting the rent from the capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999.

## **ASSESSMENT OF A FAIR RENT**

11. The Tribunal assessed the rent for the Property pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances). The Tribunal took account of the relevant cases and legislation including *Spath Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24<sup>th</sup> May 1991.
12. The Tribunal, like the Rent Officer, is required under the legislation and case law to assess a rent for the Property by reference to comparable properties in the open market taking into account the matters referred to above. It then considers whether or not a deduction for scarcity should be made, which varies depending on the market within a locality from time to time.

13. The Tribunal is not able to take the personal circumstances of either party into account.
14. With regard to the condition of the Property, the Tribunal found from the Rent Register and the Local Authority's Schedule of Works and Specifications provided by the Landlord that the Property has central heating, is double glazed and has a modern shower room. The Tribunal found for the Landlord's written representations that the works referred to in the Local Authority's Schedule of Works and Specifications were carried out under the auspices of the Local Authority and paid for by a grant from the Local Authority
15. Most properties on the market are let with carpets and white goods and this would be reflected in the rent. The Tribunal accepted the statement in the Rent Officer's notes that they were not provided, even if they had been originally, they would by now have been replaced by the Tenant. The Tribunal also accepted the statement in the Rent Officer's notes that the kitchen was unmodernised. The Tribunal therefore found that the Property was let without carpets, curtains and white goods and had a dated kitchen.
16. The Tribunal found that there was no mention of the garage on the Rent Register and therefore the Landlord was of the opinion that the rent Officer had not taken the garage into account when assessing the rent. In making its assessment the Tribunal took the garage into account.
17. Neither party provided evidence of rental values of comparable properties and therefore the Tribunal used its own knowledge and experience. The Tribunal found that comparable properties in the area with central heating, modern kitchen and bathroom and with carpets curtains and white goods and that had parking and/or a garage were in the region of £250.00 per week to £300.00 per week. Those at the upper end appeared to be larger than the Property and were very well appointed. The Tribunal determined that a market rent for the Property was £270.00 per week.
18. The Tribunal considered the evidence that it had available and made a deduction of £40.00 per calendar month (about 15%) which is for the lack of floor coverings and white goods and the dated kitchen. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Tribunal's estimate of the amount by which the rent would have to be reduced to attract a tenant.

## **SCARCITY**

19. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Tribunal together with a consideration of the properties advertised as being to let as at the time of the assessment.
20. That experience and consideration leads the Tribunal to the view that at the time of the determination, demand for "... similar dwelling houses in the locality..." that are available for letting was significantly greater than supply. "Locality" in this case

being North Hertfordshire. Therefore, a deduction of £20.00 (approximately 10%) was made to take account of scarcity.

### TRIBUNAL'S CALCULATIONS

- |     |                           |                  |
|-----|---------------------------|------------------|
| 21. | Open Market Rent:         | £270.00 per week |
|     | Less global deduction     | <u>£40.00</u>    |
|     | Market Rent               | £230.00          |
|     | Less scarcity @ about 10% | <u>£20.00</u>    |
|     | Fair rent                 | £210.00          |
22. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Tribunal whichever is the lower. However, Paragraph 2(7) of the Order provides that capping does not apply 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 a registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed”.
23. The Tribunal found that the following works had been carried out since the last registration by way of a local authority grant:
- (a) The installation of full central heating;
  - (b) New windows throughout;
  - (c) A new front door;
  - (d) A completely renovated bathroom to cater for the needs of the Tenant.
24. The Tribunal determined whether the above works carried out increased the previous rent registered by at least 15%. The Tribunal found that 15% of the previous rent is £24.82. If the works had not been carried out the Tribunal would have made a deduction of £80.00 per calendar month (about 30%) for the unmodernised kitchen and bathroom, the lack of central heating, double glazing, carpets, curtains and white goods. The works carried out have increased the rent by £40.00 which exceeds by at least 15% the previous rent registered or confirmed.
25. Therefore, if these repairs and improvements (including the replacement of any fixture or fitting) had been carried out by the Landlord capping would not apply.
26. However, the Tribunal found that the repairs and improvements (including the replacement of any fixture or fitting) were not carried out by the Landlord but by the Local Authority. Therefore, the exemption under Paragraph 2(7) the Rent Acts (Maximum Fair Rent) Order 1999 did not apply and the rent was still subject to the capping provisions.
27. Therefore, as the capped rent of £188.00 per week is lower than the rent assessed by the Tribunal of £210.00 per week, the capped rent is to be registered.

**FAIR RENT = £188.00 per week.**

**Judge JR Morris**

## **ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. 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.
4. 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.