



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

Case Reference : **CAM/00MC/F77/2021/0003**

Property : **18 Derby Road, Caversham, Reading,
Berkshire RG4 5EY**

Applicant (Tenant) : **Mr D Munson**

Respondent (Landlord): **Dorrington Queensway Residential Ltd**

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

Tribunal Members : **Judge JR Morris
Mrs M Wilcox BSc MRICS**

Date of Decision : **22nd March 2021**

DECISION

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DECISION

1. The Fair Rent for the Property is determined to be £1,050.00 (including a fixed service charge of £72.24) per calendar month which is below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999.

REASONS

THE PROPERTY

2. No inspection of the Property took place 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 11th January 2021 saying:

The tribunal will seek to determine the Fair Rent for the Property during the week commencing 22 march 2021 based on the written submissions by the parties. The Tribunal do not intend to hold an oral hearing or inspect the property internally. This is following the Government's requirements to avoid non-essential travel and social interaction for the time being.

However, either party may request a hearing and nay request should be made to the tribunal copying the request to the other side by 8 February 2021.

3. No request for an oral hearing was received.
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. Unfortunately, neither party completed the form and as the Property is situated on a private road the Tribunal was not able to obtain a street view of it on the Internet. Nevertheless, the Tribunal was able to obtain sufficient information from the knowledge of its members, similar properties for sale and to let in the same area on the Internet, the rent register and the representations made by the Landlord's Agent in order to make a determination.
5. According to the Rent Register and the Landlord's Agent's Representations, the Property is a two-storey end of terrace house. It has gas central heating. There are gardens to front and rear and off-road parking.
6. The Property comprises two living rooms, kitchen and w.c. on the ground floor and two bedrooms and a bathroom with w.c. on the first floor and two bedrooms on the second floor. The Property is let unfurnished and carpets, curtains and white goods are not provided.
7. It is situated on a private road in Caversham close to a wide range of amenities. A service charge is levied on the Estate for Gardening, public liability insurance and estate repairs.

THE TENANCY

8. The Tenancy is regulated under the Rent Act 1977 and commenced on 16th January 1967. 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

9. A rent of £1,094.00 per calendar month, which was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, was registered on 7th November 2018 and effective from 6th December 2018. The Landlord by a notice in the prescribed form received by the Rent Officer on 28th September 2020 proposed a new rent of £14,544.00 including a fixed service charge of £866.90 per annum, which equates to £1,045.33 including £72.24 fixed service charge per calendar month which is the tenancy period. On 17th November 2020 the Rent Officer registered a rent effective from 6th December 2020 of £1,050.00 including a fixed service charge of £72.24 per calendar month, which was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. On 7th December 2020 the Landlord referred the Rent Officer's assessment to the Tribunal. The referral was by way of written representations.

THE LAW

10. The Law relating to these reasons is contained in section 70 Rent Act 1977.

REPRESENTATIONS

11. The Tenant did not make any representations.
12. The Landlord's Agent made written representations which are summarised as follows:
13. It was submitted that comparable properties of the same size in the same area are achieving between £14,340.00 and £18,000.00 per annum and that a market rent for the Property would be £16,110.00 per annum if let on an Assured Shorthold Tenancy with carpets and white goods.
14. The Agent submitted the following properties as being comparable, all are let on assured shorthold tenancies. Details were provided:
 - Queens Road, Caversham is a late Victorian mid-terraced house. It has a living room, dining room, fitted kitchen, bathroom and three double bedrooms. It has a rear garden and permit street parking is available. The asking rent was £1,195 pcm.
 - Queens Street, Caversham is a period mid-terraced town house on a quiet no-through road. It has a living room, dining room, kitchen and bathroom on the ground floor and two double bedrooms and a single bedroom accessed via bedroom two on the first floor. It has a rear garden. It was described as having floor coverings and integrated appliances and in good condition. The asking rent was £1,250 pcm.
 - Mayfield Drive, Caversham is a 1930s semi-detached house. It has a living room/dining room, double conservatory to the rear and newly fitted kitchen on the ground floor and three bedrooms and a newly refurbished bathroom on the first floor. It has a rear garden and off-road parking. The asking rent was £1,425.00 pcm.
 - Elliots Way, Caversham is a modern end of terrace town house. It has entrance hall, downstairs cloakroom, living room and kitchen on the ground floor and three bedrooms and a bathroom on the first floor. It has a rear garden and two parking spaces. It was described as having double glazing, central heating with floor coverings and integrated appliances and in good condition. The asking rent was £1,500 pcm.
15. Scarcity – it was stated that 249 comparable properties were available to rent within a 3-mile radius of the Property and therefore no deduction should be made to take account of scarcity as it is not inflating rental prices in the area as current demand does not outstrip supply.
16. Condition – it was stated that the Agent was not aware of any failure by the Landlord to fulfil its statutory or contractual duties as defined in the tenancy agreement and that if there is disrepair that has not been reported by the Tenant it was felt inappropriate to make a deduction and so no deduction should be made in respect of it as there had been no opportunity to remedy the defect.
17. Location – the Property was said to be in the quiet village of Caversham within easy distance of Reading Station, local car parks and amenities.
18. Conclusion - the following calculation was submitted:

Market Rent	£16,110.00 p.a. (£1,342.50 pcm.)
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Less deductions for:	
Lack of carpets and white goods	£1,400.80
Updating of kitchen/bathroom	<u>£1,611.00</u>
Total	£13,099.00 pa. (£1,091.58 pcm.)

19. A calculation under the Rent Acts (Maximum Fair Rent) Order 1999 was made which give a maximum fair rent of £13,095.00 pa. (£1,109.25 pcm.)

ASSESSMENT OF A FAIR RENT

20. The Tribunal decided that as the current situation regarding COVID 19 was likely to continue for a considerable time it was in the interests of justice that a determination should be made if possible. In doing so it took into account:

Article 6 of the Human Rights Act which states that “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

Rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 which states that:

- (1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.
- (2) Dealing with a case fairly and justly includes—
 - (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal;
 - (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
 - (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
 - (d) using any special expertise of the Tribunal effectively; and
 - (e) avoiding delay, so far as compatible with proper consideration of the issues.
- (3) The Tribunal must seek to give effect to the overriding objective when it—
 - (a) exercises any power under these Rules; or
 - (b) interprets any rule or practice direction.
- (4) Parties must—
 - (a) help the Tribunal to further the overriding objective; and
 - (b) co-operate with the Tribunal generally.

21. The parties had been given an opportunity to make representations regarding the assessment of rent and no hearing had been requested. The Tribunal would normally make an inspection of the Property but the Tribunal considered that it had sufficient information to make a determination in this case.

22. 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 *Spatha 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* 24th May 1991.

23. 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.
24. The Tribunal is not able to take the personal circumstances of either party into account.
25. The Tribunal noted that a fixed service charge was made. This is assessed as part of the rent and does not vary according to the actual cost of the services. There are no provisions to assess the reasonableness of fixed service charges separately. Under section 71 of the Rent Act 1977 a tribunal determines a rent taking into account the services that are provided. The landlord may provide a schedule of services, as is the case here, that sets out the costs attributed to each item at the time of a rent increase. The purpose of the schedule is to identify the services provided and to indicate the level and value of services by reference to the amount attributed to them, which is included in the rent. It appears from the Schedule provided in this case that the Landlord adjusts the service charge when the registered rent is re-assessed by the Rent Officer to take account of the actual costs incurred and this is in keeping with the fixed nature of the service charge.
26. The Schedule items applicable to the Property relate to the Estate and for 2018/2019 were as follows:

Items	2019 Actual £	2018 Actual £
Management Fees	3,585	3,480
Company Secretary Honorarium	200	200
Accountancy Fees	1,321	1,242
Bank Charges	70	73
Pest Control	576	576
Gardening	3,420	4,423
Estate repairs	186	2,213
Public & Property Owners' insurance	145	77
Directors & Officers' Insurance	144	81
Reserve Provision	2,900	2,900
Total	12,544	15,264

27. It is not known how many properties share the service charge or how it is apportioned. The service charge attributed to the Property is £72.24.
28. With regard to the condition of the Property, the Rent Register recorded that the Property had central heating. The Tenant had an opportunity to challenge these statements if they had been incorrect but had not done so. The Tribunal therefore had no reason to doubt its veracity and found that the Property has central heating.
29. Most properties on the market are let with carpets and white goods and this would be reflected in the rent. The Landlord's Agent in its calculations made a deduction in respect of these items indicating that they were not provided and even if they had

been originally, they had been replaced by the Tenant. Similarly, in its calculations the Agent had made a deduction to reflect the kitchen and bathroom being dated, indicating that the fittings and installations were either original or had not been replaced by the Landlord for some considerable time, even if they had been by the Tenant. The Tribunal therefore found that the Property had a dated kitchen and bathroom.

30. The Tribunal considered the properties submitted by the Landlord's Agent. Whereas none of the properties were directly comparable they gave a general guide to rental values for three-bedroom properties in the locality. Both the Queen's Road and Queen's Street properties appeared to be less attractive than the Property although they each had a modern kitchen and bathroom neither had off-road parking and appeared to have ground floor bathrooms. On the other hand, both the Mayfield Drive and Elliots Way appeared to be more attractive than the Property, being in good condition and having a number of features which justified their respective rental value. The Tribunal considered that a rental value between Queen Street and Mayfield Drive was appropriate. Therefore, taking into account the age, condition and locality of the Property, with the information available, and using the knowledge and experience of its members the Tribunal determines that a market rent for the Property is £1,300.00 per calendar month.
31. The Tribunal considered the evidence that it had available and made a deduction of a global figure of £260.00 per calendar month for the lack of floor coverings and white goods and the dated kitchen and bathroom. 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

32. 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.
33. 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 not *significantly* greater than supply. "Locality" in this case being Berkshire. Therefore, no deduction was made to take account of scarcity.

TRIBUNAL'S CALCULATIONS

34.	Open Market Rent:	£1,300.00 per calendar month
	Less global deduction	<u>£250.00</u>
	Fair Rent	£1,050.00

35. 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. The capped rent is £1,096.00 per calendar month, which is higher than the rent assessed by the Tribunal. Therefore, the rent assessed by the Tribunal is to be registered.

36. Pursuant to paragraph 9 of Schedule 11 of the Rent Act 1977 the Tribunal shall confirm the rent registered by the Rent Officer if it appears to be a fair rent. The Tribunal notes that the fair rent assessed by the Rent Officer was £1,050.00 including a fixed service charge of £72.24 per calendar month, which is the same as the rent assessed by the Rent Officer. Therefore, the Tribunal confirms the rent assessed by the Rent Officer as a fair rent.

FAIR RENT = £1,050.00 (including a fixed service charge of £72.24) per calendar month.

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.