



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

**Case Reference** : **CAM/00MC/F77/2021/0001**

**Property** : **Flat 43, Field View, Derby Road, Caversham,  
Reading, Berkshire RG4 5HB**

**Applicant (Tenant)** : **Mr A Rees**

**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** : **22<sup>nd</sup> March 2021**

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**DECISION**

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**DECISION**

1. The Fair Rent for the Property is confirmed to be £805.00 (including a fixed service charge of £42.45) 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 11<sup>th</sup> January 2021 saying:

*The tribunal will seek to determine the Fair Rent for the Property during the week commencing 22<sup>nd</sup> 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 any request should be made to the tribunal copying the request to the other side by 8<sup>th</sup> 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, properties in the same building for sale and to let 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, the Landlord's Agent's representations and information from the Internet, the Property is a self-contained one-bedroom ground floor flat in a three-storey block (the Block) of similar purpose-built flats. There is a resident caretaker, communal gardens and residents' parking.
6. The Property comprises a living room, kitchen, bedroom and a bathroom with w.c.. The Property is let unfurnished and carpets, curtains and white goods are not provided.
7. The Block in which the Property is situated is on a private road in Caversham close to a wide range of amenities. A service charge is levied on the Estate for services including gardening, public liability insurance and Estate repairs and on the Block for services including cleaning, utilities, water services and Block repairs.

#### **THE TENANCY**

8. The Tenancy is regulated under the Rent Act 1977 and commenced on 1<sup>st</sup> May 1985. 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 £775.00 including a fixed service charge of £46.87 per calendar month, which was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999, was registered on 11<sup>th</sup> October 2018 and effective from 9<sup>th</sup> November 2018. The Landlord by a notice in the prescribed form received by the Rent Officer on 28<sup>th</sup> September 2020 proposed a new rent of £11,160.00 including a fixed service charge of £509.46 per annum, which equates to £930.00 including £42.45 fixed service charge per calendar month, which is the tenancy period. On 17<sup>th</sup> November 2020 the Rent Officer registered a rent effective from that date of £805.00 including a fixed service charge of £42.45 per calendar month, which was below the capped rent under the Rent Acts (Maximum Fair Rent) Order 1999. On 7<sup>th</sup> December 2020 the Landlord referred the Rent Officer's assessment to the Tribunal.

#### **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 £10,740.00 and £12,600.00 per annum and that a market rent for the Property would be £11,595.00 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 from the Internet were provided:
  - Isis Court, De Montfort Road, Caversham is a ground floor purpose built flat. It has an entrance hall, living room, kitchen, bedroom and bathroom. It has a garden area and residents' parking. The asking rent was £1,050 pcm.
  - Kidmore Road, Caversham is a split-level apartment. It has an entrance hall off which is a living room with modern kitchen and from which are stairs to a landing off which is a bedroom and bathroom and access to loft storage. Off road parking is available. The asking rent was £995 pcm.
  - Knights Way, Emmer Green is a ground floor maisonette. It has been newly refurbished and comprises an entrance hall, bedroom, bathroom, living room and kitchen with appliances. There is also an additional internal room. There is a private garden and road side parking. The asking rent was £925 pcm.
  - Charles Evans Way, Caversham is a first-floor maisonette comprising a living room, kitchen with appliances, bedroom and bathroom. There is a private garden and two parking spaces. It has gas central heating and double glazing. The asking rent was £895.00 pcm.
15. Scarcity – it was stated that 486 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	£11,595.00 p.a. (£966.25 pcm.)
Less deductions for:	
Lack of carpets and white goods	£600.00
Updating of kitchen/bathroom	<u>£1,000.00</u>
Total	£9,995.00 pa. (£833.00 pcm.)
19. A calculation under the Rent Acts (Maximum Fair Rent) Order 1999 was made which give a maximum fair rent of £10,082.00 pa. (£840.50 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* 24<sup>th</sup> 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 for 2018/2019 were as follows:

<b>Schedule A Estate Items</b>	<b>2019 Actual £</b>	<b>2018 Actual £</b>
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
<b>Total</b>	<b>12,546</b>	<b>15,264</b>

<b>Schedule B Block Items</b>	<b>2019 Actual £</b>	<b>2018 Actual £</b>
Management Fees	2,967	2,880
Electricity	2,923	2,237
Internal Cleaning	3,200	2,927
Water Booster Pump Maintenance	121	390
Water Tank Cleaning and Testing	788	1,027
Inter-com System	192	294
Fire Safety Systems Maintenance	612	504
Repairs and Maintenance	2,743	7,856
Buildings Insurance	5,747	4,399
Reserve Provision	2,400	2,400
<b>Total</b>	<b>21,692</b>	<b>24,913</b>

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 £42.45.

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 flats in the locality. 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 £950.00 per calendar month.
31. The Tribunal considered the evidence that it had available and made a deduction of a global figure of £145.00 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:	£950.00 per calendar month
Less global deduction	<u>£145.00</u>
Fair Rent	£805.00
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 £841.50 per calendar month, which is higher than the rent assessed by the Tribunal.

36. Under 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 £805.00 including a fixed service charge of £42.45 per calendar month. The Tribunal therefore confirms the rent assessed by the Rent Officer as a fair rent which is to be registered.

**FAIR RENT = £805.00 (including a fixed service charge of £42.45) 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.