



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

Property	5 Moor Edge, Harden, Bingley, West Yorkshire BD16 1LB
Landlord	Woodhead Investments and Development Services Ltd
Tenant	Ms Ruth Dolan
Case number	MAN/00CX/F77/2019/0027
Type of Application	Rent Act 1977 – Section 70
Tribunal Members	K M Southby (Judge) E Scull (Valuer Member)
Date of Decision	28 May 2019
Date of Extended Reasons	15 July 2019

DECISION and REASONS

DECISION

A fair rent of £353.17 per calendar month was determined by the Tribunal on 28 May 2019 with effect from 3 March 2019.

REASONS

PRELIMINARY

1. On 19 January 2019 an application for registration of a fair rent for 5 Moor Edge, Harden ('the Property') was received by the rent officer from William Denton and Son as agents for the Landlord. The property was tenanted by Ms Dolan ('the Tenant').
2. A rent of £81 per week was determined by the rent officer on 3 March 2019 with effect from the same date.
3. The Tenant objected to the registered fair rent and requested the rent officer to refer the matter to the Tribunal which was received by the Tribunal on 14 March 2019.
4. A hearing was not requested by either party.
5. An internal and external inspection of the Property was made by the Tribunal on 28 May 2019 at which Ms Dolan was present
6. The Tribunal also had the benefit of written submissions by both parties.

THE PROPERTY

7. The Tribunal found the Property to be a two bedroom stone terraced cottage with slate roof, laid out over three floors, basement, ground and first floor, on the edge of the village of Harden, near Bingley. The property had the benefit of double glazing and central heating.
8. The Property has shared access to the back, giving entry to the lower ground floor where the kitchen and bathroom were situated. The living room is at ground floor level and 2 bedrooms at first floor level. The property showed evidence of damp throughout with plasterboard appearing to have been added in some places over the top of some areas of damp.
9. The Property was let without white goods, carpets and curtains, and the Tribunal were informed that the kitchen and bathroom and some radiators had been installed by the present tenant.

THE LAW

10. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, Section 70:

1. Has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
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;
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.
4. 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
 - i. That ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' and
 - ii. 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).

11. 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.

12. The Tribunal must 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.

FAIR RENT

13. The Tribunal gave careful consideration to the written representations from both parties, together with the documentation derived from the rent officer.

14. Neither party having provided any evidence of comparable properties, the clearest starting point for assessing an appropriate fair rent is to consider any similar property, if such exists, in the locality let at a market rent under the Housing Act 1988, using that rent as the basis for a fair rent but then making appropriate deductions. Such direct evidence is not always available and in

the absence of any comparable evidence supplied by either party, the Tribunal must also rely upon its expertise gained from assessing rents for many similar properties throughout the North of England and Harden in particular.

15. The Tribunal considered based upon all of this evidence, including the comparable property information provided within the documents from the Rent Officer that a likely achievable market rent for a property such as 5 Moor Edge, Harden would be in the region of £130 per week, if let with carpets, curtains and white goods and in a good, modernised condition with central heating and windows and doors in good condition.
16. After taking into account a notional deduction in the rent for carpets, curtains and also landlord's neglect in the form of the damp within the Property, the Tribunal arrives at a total initial deduction of £20 per week. The Tribunal also took into account the effect on the rent of the Tenant's improvements, being mindful that the Tenant had incurred costs in having the property replastered, and had installed the kitchen and bathroom. The Tribunal concluded that the value of the tenants improvements was £25 per week, and therefore deducts this from the fair rent figure, so that the Landlord does not benefit from work done to the property by the Tenant.
17. The Tribunal therefore assesses that £85 per week or £368.35 per calendar month is a realistic adjusted market rent. The Tribunal was satisfied that this was not a situation where the demand for similar properties in the locality exceeded in any significant way the number of properties available to let.
18. The rent is however subject to the capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999. After effecting the appropriate calculation, the Tribunal determined that the fair rent assessed above exceeds the maximum fair rent for the Property which was calculated at £81.50 per week, or £353.17 per calendar month.
19. The Tribunal received no evidence from the Landlord to suggest they had carried out substantial works done to the Property since the last registration which might mean that the maximum fair rent did not apply.
20. The Tribunal is mindful that the Tenant has been involved in other court proceedings in relation to the damp in the property, but the Tribunal cannot and does not offer any comment on that, as it is outside the jurisdiction of this Tribunal, whose task is to determine the fair rent for the Property in the condition which we found it to be upon viewing.
21. Accordingly, the Tribunal determines the fair rent for the Property to be £81.50 per week effective from 3 March 2019.