



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

**Case Reference** : BIR/00CW/F77/2018/0035

**Property** : 205 Trysull Road, Wolverhampton, West Midlands, WV3 7JP

**Applicant** : Northumberland & Durham Property Trust Limited

**Representative** : Grainger plc

**Respondent** : Mrs E. Williams

**Type of Application** : Appeal against the Rent Officer's Decision of Fair Rent under the s.70 Rent Act 1977

**Tribunal Members** : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS  
Mr J. Arain

**Date and Venue of Hearing** : Not applicable, paper determination

**Date of Decision** : 29 October 2018

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**DECISION**

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- 1 The Fair Rent is determined at £64.00 (Sixty Four Pounds) per week from 29 October 2018.

## REASONS

### Introduction

- 2 Mrs Williams holds a protected tenancy of 205 Trysull Road, Wolverhampton, West Midlands, WV3 7JP. The rent had previously been registered by the Rent Officer at £58.00 per week on 2 August 2016 to take effect on 13 September 2016. On 14 June 2018 the landlord applied for an increase to £69.60 per week and on 8 August 2018 the Rent Officer registered a new rent of £61.00 per week to take effect on 13 September 2018.
- 3 The landlord appealed against the Decision by letter to the Valuation Office Agency dated 10 September 2018 and the matter was referred to the First-tier Tribunal for Determination. The Tribunal inspected the property and reached its decision on 29 October 2018 and the Decision papers were sent to the parties. On 2 November 2018 the Tribunal received a letter from the landlord's agents Grainger plc requesting reasons which are the subject of this document.

### The Law

- 4 Mrs Williams is a protected tenant as acknowledged by the landlord. We have not been provided with a copy of the tenancy agreement but understand the property had been let unfurnished with the landlord responsible for repairs to the structure and exterior and the tenant for internal decorations in accordance with s.11 of the Landlord & Tenant Act 1985.
- 5 Accordingly, the rent falls to be determined in accordance with s.70 of the Rent Act 1977.
- 6 S.70(1) states that in determining a fair rent, regard has to be had to all the circumstances of the tenancy (other than personal circumstances) including the age, character, locality and state of repair of the house, whether the property is let furnished and whether a premium had been paid or would be required to renew, continue or assign the tenancy.
- 7 s.70(2) adds a further qualification that it is assumed that the number of parties seeking to become tenants of similar houses in the locality on the terms of the tenancy (other than the rent) is not substantially greater than the number of houses available to let on such terms. This is usually referred to as 'scarcity' and the Court of Appeal held in *Spath Holme Ltd. v Chairman of the Greater Manchester Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 that under normal circumstances the fair rent is the market rent discounted for scarcity. The Court also held that assured tenancy rents could be considered comparable to market rents.
- 8 s.70(3) requires the valuation to disregard any disrepair due to a tenant's failure to comply with the terms of the tenancy and any improvements carried out by either the tenant or their predecessor in title.

### Facts Found

- 9 The Tribunal inspected the property on 29 October 2018 and found it to be in fair condition. It is a two bedroom end terraced house in a residential part of Wolverhampton within walking distance of local shops and facilities.

- 10 The accommodation comprises a living room, dining room, kitchen and bathroom on the ground floor with a landing and two bedrooms on the first floor. The loft has been converted to a playroom / store but it is accessed from a steep staircase from the back bedroom with limited headroom and is only used for storage. The house is set back from the pavement behind a front garden with room to park a car in the drive. The tenant has built a DIY store to the side of the wing which is an improvement to be disregarded from the valuation. The back garden has a small lawn and shed built by the tenant.
- 11 Mrs Williams advised that she and her late husband had rented the house many years ago and carried out extensive improvements. At the time, it was effectively a shell with very basic amenities such as only two power points in the property and no hot water supply. They had it re-wired, installed a hot water supply, fitted kitchen and bathroom suites, converted the loft, built the side store, installed some double glazing and redecorated throughout, all of which are to be disregarded from the valuation and the house is valued on the assumption that it remains in original condition.

### **Submissions**

- 12 Neither party requested a Hearing.
- 13 The landlord's agents sent a written submission referring to a house in Finchfield, Wolverhampton they regarded as comparable. The letting information referred to a fully fitted kitchen and bathroom with a shower, new carpets in part of the accommodation, gas-fired central heating and a location in a 'sought after residential area'. The asking rent was £127.00 per week.  
  
They regarded the Finchfield house as better and to put it on a comparable basis deducted £50.00 per week for the lack of central heating, modernised kitchen and bathroom suites, floor coverings and white goods. They made no deduction for scarcity and requested a fair rent of £69.60 per week.
- 14 Mrs Williams sent a letter by way of submission, drawing attention to the improvements she and her late husband had carried out.

### **Decision**

- 15 To assess the Fair Rent the Tribunal need to assess the rental value of the house in good condition as a starting point, assuming it had been well maintained and modernised with central heating, reasonable kitchen units and a bathroom suite in fair condition, fully equipped with carpets and curtains and ready to let in the open market.
- 16 Based on the evidence supplied by Grainger and the Tribunal's own general knowledge and experience, the Tribunal assessed the market rent in good condition at £127.00 per week.
- 17 However, it had not been let in that condition, the tenant had been there for many years and the house needed refurbishment. The Tribunal accepted Grainger's submission of £50 for lack of amenities and tenants' improvements detailed above at paragraph 11 to leave a net rent of £72.00 per week.
- 18 The Committee considered the question of scarcity in s.70(2) of the Rent Act 1977 and found that the number of potential tenants looking for accommodation of this type in the

area would have been significantly greater than the number of units available to let. The Tribunal found there was excess demand and deducted £8.00 from the market rent to arrive at the statutory basis for a fair rent.

- 19 Deducting £8.00 for scarcity left a net rent of £64.00 per week.
- 20 The Rent Acts (Maximum Fair Rent) Order 1999 was not relevant as the Fair Rent was less than the capped increase that may have been permitted by the Order, set out in the papers sent to the parties with the Decision Notice.
- 21 There were no services to take into account.
- 22 Accordingly, the Tribunal determined the Fair Rent at £64.00 (Sixty Four Pounds) per week with effect from 29 October 2018.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman  
10<sup>th</sup> December 2018