



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

**Case Reference** : **LON/00AJ/F77/2019/0171**

**Property** : **56 Balfour Road West London W13  
9TN**

**Applicant** : **Phillip Jones**

**Respondent** : **Elmdene Estates**

**Date of Application** : **15 September 2019**

**Type of Application** : **Determination of the registered rent  
under Section 70 Rent Act 1977**

**Tribunal** : **Mrs E Flint FRICS  
Ms J Dalal**

**Date and venue of  
hearing** : **2 December 2019  
10 Alfred Place, London, WC1E 7LR**

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**DECISION**

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The registered rent with effect from 2 December 2019 is £812.50 per month.

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## **Background**

1. On 19 August 2019 the landlord applied to the rent officer for registration of a fair rent of £910 per month for the above property.
2. The rent payable at the date of the application was £727.50 per month which had been registered by the rent officer on 21 July 2017 with effect from the same date.
3. On 6 September 2019, the rent officer registered a fair rent of £808.50 per month with effect from the same date.
4. On 15 September 2019 the tenant objected to the rent determined by the Rent Officer.
5. A hearing was held on 2 December 2019 at which the tenant appeared in person; the landlord was not represented. However both the landlord and tenant sent written representations prior to the hearing.
6. The tribunal inspected the house on 2 December 2019.

## **The Evidence**

7. Mr Jones said that the house was unmodernised. There were double glazed windows to the front and he had installed a double glazed window in the rear bedroom as it was so draughty. The front and back doors were poor quality and did not provide good insulation from the weather. There were holes in the floorboards, made worse by poor making good when the central heating was installed. The very poor insulation meant that there was limited benefit to be gained from the central heating. He was not aware of there being any insulation in the roof space and referred to the list of recommended works on the EPC.
8. The kitchen was in a lean to, was basic and very cold; he had provided the flooring, kitchen units and white goods. The water supply was via lead pipes and he was concerned that they were a health risk.
9. The comparables provided by the Respondent were 52 and 58 Balfour Road, and were fully double glazed. Number 58 had been done up before the tenant had moved in.
10. He was of the opinion that the rental value of 56 was between £750 and £800 per month.
11. Ms Zivanovic of Townsends, on behalf of the landlord, provided written submissions, in which it was stated that the EPC for the house was below the acceptable standard for a letting and therefore the landlord had installed gas fired central heating system in place of the night storage heaters previously used to heat the house.

12. She referred to three lettings of similar houses within Balfour Street. Numbers 46 and 52 were let on AST's at £1700 and £1300 per month, Number 52 was subject to a regulated tenancy at £810.33 per month.

## **Inspection**

13. Balfour Road is a heavily parked tree lined residential street of two storey houses built c1900. The subject is a mid-terrace house, situated within walking distance of local shops, transport and other local facilities.
14. The accommodation comprises two rooms and lean to kitchen on the ground floor, there was a steep staircase leading to one double and one single bedroom and bath/wc on the first floor. The ceiling in the front bedroom had been plastered some twenty years ago however the remaining plasterwork appeared to be the original and was cracked in a number of places. There were original open fireplaces in the living rooms and front bedroom, but not in use. The bathroom was cramped and dated.
15. Apart from the installation and the tenant's improvements, the house was not in a condition which could be considered comparable to those houses available to let on the open market which from an external inspection, were in very good condition having been completely refurbished and double glazed with good quality front doors.

## **The law**

16. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
17. 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 ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms - other than as to rent - to that of the regulated tenancy) and 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 those comparables and the subject property).

## **Valuation**

18. In the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today in the condition that is considered usual for

such an open market letting. The evidence supplied by the landlord was useful in highlighting the significant difference in the condition of this property and the comparables. The Tribunal concluded that the likely market rent for the house would be £1700 per month.

19. However, it was first necessary to adjust the hypothetical rent of £1700 per month to allow for the considerable differences between the terms and condition considered usual for such a letting and the condition of the actual property at the date of the inspection, ignoring the tenant's improvements, (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Tribunal considered that these differences required a deduction of £600 per month.

20. This leaves an adjusted market rent for the subject property of £1100 per month. The Tribunal was of the opinion that there was substantial scarcity in Greater London for similar sized properties and therefore made a deduction of 20% from the market rent to reflect this element giving a monthly uncapped rent of £880.

### **Decision**

21. The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £880 per month.

18. The uncapped fair rent is above the maximum rent payable, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent of £812.50 per month. (Details of the calculation are provided on the back of the decision form).

**19. Accordingly the sum of £812.50 per month will be registered as the fair rent with effect from 2 December 2019 being the date of the Tribunal's decision.**

*Chairman: Evelyn Flint*

Dated: 9 December 2019

