



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

**Case reference** : **KA/LON/00AG/F77/2019/0136**

**Property** : **Flat 32 Antrim Mansions, Antrim Road, London NW3 4XU**

**Landlord** : **Northumberland & Durham Property Trust**

**Tenant** : **Ms Sheila Ballantine**

**Type of application** : **Fair rent determination in accordance with section 70 of the Rent Act 1977**

**Tribunal members** : **Judge P Korn (Chairman)  
Mr K Ridgeway MRICS**

**Date of decision** : **20<sup>th</sup> September 2019**

**Date of Extended Reasons** : **24<sup>th</sup> October 2019**

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**REASONS FOR DECISION**

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## **Decision of the FTT**

The First-tier Tribunal (“**FTT**”) determines the fair rent to be £5,040.00 per quarter (including £199.61 per quarter for services), with effect from 20<sup>th</sup> September 2019. The capping provisions of the Rent Acts (Maximum Fair Rents) Order 1999 (“**the Order**”) apply but the fair rent is not limited by the Order as the fair rent is less than the maximum fair rent prescribed by the Order.

## **Background**

1. According to information supplied by the Landlord, the tenancy commenced on 25<sup>th</sup> December 1966.
2. On 2<sup>nd</sup> July 2019, the Rent Officer registered a fair rent of £5,210.00 per quarter effective from 1<sup>st</sup> August 2019. The Rent Officer applied capping to the rent, and the Rent Register stated that the uncapped rent - i.e. the rent that would otherwise have been registered if the rent had not been subject to capping – was £6,375.00 per quarter.
3. By a letter dated 11<sup>th</sup> July 2019 Mr Michael Warburton, acting by virtue of a Power of Attorney, objected on the Tenant’s behalf to the fair rent registered by the Rent Officer. Both parties made written representations but neither party requested a hearing.

## **Inspection**

4. The FTT inspected the Property on 20<sup>th</sup> September 2019 and noted that the Property was as described by the Rent Officer in the Rent Register.
5. There were four bedrooms, but the fourth bedroom was extremely small. The kitchen was small and unmodernised, and the white goods belonged to the Tenant. The bathroom was also small and unmodernised. There was no central heating, but there was some low-level background heating and some portable electric heaters. The lounge was large and bright and had a more modern feel to it than the rest of the Property.

## **The Law**

6. When determining the fair rent the FTT, in accordance with section 70 of the Rent Act 1977, had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the Property. To the extent that it was aware of any, it also disregarded the effect of (a) any relevant tenant’s improvements and (b) 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.

7. Section 70(2) of the Rent Act 1977 states that the FTT must also assume that the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words, the effect of any such “scarcity” on rental values must not be included when determining the fair rent for the subject property.
8. 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:
  - (i) 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 to that of the regulated tenancy) and
  - (ii) that for the purposes of determining the market rent, assured tenancy rents are usually appropriate comparables (these rents will have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).
9. Therefore, once the market rent for the Property has been determined by the exercise in 6 above, that rent must be adjusted, where necessary, for scarcity.
10. The other relevant provision is the Rent Acts (Maximum Fair Rent) Order 1999 (“**the Order**”). Where it applies, this provides for a limit on the amount that can be registered as the fair rent, often referred to as the “capped rent”, calculated in accordance with a formula laid down in the Order.

## **Valuation**

11. In reaching its determination the FTT took into account the documents which were supplied by the Rent Officer, the parties’ written representations and its own general knowledge.
12. The FTT first determined the rent which the Landlord could reasonably be expected to obtain for the Property in the open market in the condition considered usual for a modern letting (“**the initial valuation**”). The FTT noted that whilst the Property technically contained four bedrooms one of those bedrooms was extremely small. On the other hand, the Property viewed as a whole was very spacious. The FTT noted the comparable evidence from the Landlord, as well as having regard to its own general knowledge of market rent levels in the area obtained through regular valuations in the London area. Having done this, it came to the conclusion that a reasonable initial valuation would be £10,500.00 per quarter.

13. Adjustments then needed to be made to this initial valuation to take into account (a) any information available to the FTT as to the actual condition of the Property, (b) any improvements carried out by the Tenant (which do not form part of her repairing obligations) and (c) the terms of the tenancy to the extent that they affect value.
14. Applying these principles to the Property, the FTT considered that a 40% deduction was due to reflect (i) the lack of central heating, (ii) the small and unmodernised kitchen, (iii) the small and unmodernised bathroom, (iv) the lack of soft furnishings and (v) the Tenant's responsibilities in relation to the upkeep of the interior. This reduced the rental figure from £10,500.00 per quarter to £6,300.00 per quarter. No information has been supplied by the Tenant to indicate that any improvements have been carried out by her.
15. The FTT also considered the issue of scarcity. The FTT has no doubt that there is substantial scarcity of accommodation of this type in Greater London. In the absence of any evidence from the parties, the FTT applied its own general knowledge and had regard to the collective knowledge of its expert members in the London region. The FTT concluded that 20% is currently the appropriate deduction in Greater London. Applying the 20% deduction referred to above, this reduced the rent to £5,040.00 per quarter.
16. Whilst the capping provisions of the Order do apply in this case, the above figure of £5,040.00 per quarter is less than the maximum fair rent prescribed by the Order. Consequently, the fair rent is not limited by the Order.
17. Therefore, the new fair rent for the Property is the amount of £5,040.00 per quarter.

**Name:** Judge P Korn

**Date:** 24<sup>th</sup> October 2019