



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

**Case Reference** : **LON/00BJ/F77/2019/0080**

**Property** : **67 Heythorp Street, London  
SW18 5BS**

**Applicant** : **Mr Abdul Mehmet (Tenant)**

**Representative** : **-**

**Respondent** : **Grainger Finance Company Limited  
(Landlord)**

**Representative** : **Grainger Residential Management  
Limited**

**Type of Application** : **Objection to Fair Rent registered by  
Rent Officer**

**Tribunal Members** : **Mr P M J Casey MRICS  
Mr C Piarroux JPCQSW**

**Date and venue of  
Hearing** : **21 June 2019  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **21 June 2019**

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**REASONS FOR DECISION**

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## **Background**

1. These “Reasons for Decision” are in respect of a consideration of the tenant’s objection to the rent of £249 per week, registered by the Rent Officer on 29 March 2019 and effective from 11 May 2019 in respect of 67 Heythorp Street, London SW18 5BS (“the property”).
2. The landlords, Grainger Finance Company Limited, through its agent, Grainger Residential Management Limited, made an Application for Registration of Fair Rent to the Rent Officer on 22 February 2019. The fair rent sought was £260 per week and the passing rent at the time was given as £226 per week. The tenancy commenced 12 November 1979. A rent of the property of £226 per week had previously been determined by the Rent Officer on 27 March 2017 effective from 11 May 2017.
3. The Rent Officer received a letter on 12 April 2019 from the tenant objecting to the registration and the Rent Officer sent the objection to the First-tier Tribunal (Property Chamber) for determination.
4. Directions for the determination of the application were made by the tribunal providing for a determination on the papers directed to be submitted; neither party requested an oral hearing. The Directions also made inspection arrangements for the tribunal on 21 June 2019.

## **The Evidence**

5. The landlord’s agent, Rebecca Linnell of Grainger Residential Management submitted written representations received by the tribunal on 31 May 2019 which briefly described the property, its location (in a rather London sightseeing way) and referred, without full addresses, to three lettings of nearby properties with only two bedrooms for which copies of letting particulars were supplied. These were all open market lettings of properties which had been modernized. From this evidence, which had all let at £1,500 per month she gave it as her opinion that the rent determined by the Rent Officer was indeed “fair”
6. The tenant made no written submissions.

## **The Inspection**

7. The tenant was in attendance for the tribunal’s inspection. The property is a two storey terraced house dating from the late 19<sup>th</sup> century. The accommodation comprises four rooms kitchen/diner, bathroom w/c. Fixtures and fittings in the kitchen and bathroom are dated but functional. Decorative condition internally is poor as is the exterior. There are gardens front and rear and an old timber/Perspex conservatory erected by the tenant.

## **The Law**

8. It is established by decisions of the Court of Appeal, and particularly by *Curtis v The London Rent Assessment Committee* [1999]QB92, that in accordance with S70 of the Act we are required to determine the fair rent for the property as being the rent at which we consider the property might reasonably be expected to let in the open market by a willing landlord under a tenancy on the same terms as the actual tenancy ignoring any increase in value attributable to tenant’s improvements and any decrease in value due to the tenant’s failure to comply

with any terms of the tenancy, subject to any adjustment which may be required to reflect the assumption to be made under S70(2) of the Act.

9. S70(2) of the Act provides: “For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms”.

## **Decision**

10. The tribunal is required to determine the fair rent of “the subject property” as at the date of its decision taking into account the condition of the subject property as we saw it, save for any tenant default in complying with tenancy obligations.
11. Only the landlord’s agent provided helpful rental evidence. From that and our own knowledge and experience of rent levels in SW18 we are of the opinion that an appropriate starting point for the determination would be an open market rent of £480 per week if the subject property were let on an assured shorthold tenancy (AST) in a fully modernized condition.
12. An adjustment is then required to reflect the actual terms of the tenancy. Unlike an AST letting these terms make the tenant liable for internal decoration and minor repairs. The tenant also has to provide his own carpets and curtains and “white goods”. We think an appropriate deduction to be made to reflect those differences is 10% and this reduces the starting point rent to £432 per week. From this sum in our view a further deduction should be made to reflect the lack of improvements particularly in the bathroom and kitchen facilities and some disrepair and we take a further 20% off to reflect this lack of modernization and disrepair to leave a market rent for the house of £345 per week. To reflect the value of tenant’s improvements, principally the conservatory we deduct a further £35 per week to leave £310 per week.
13. It then falls to be considered if a further adjustment is required because of the assumption required to be made under S70(2) of the Act. We certainly believe that “the number of persons seeking ... etc does substantially exceed the number of such dwelling houses ... etc” and that an adjustment must be made for what is commonly referred to as scarcity. Neither party addressed this issue in the terms required by the statute. We consider that scarcity should be looked at across the whole of the Greater London Area and that “similar properties” embraces both two and three bedroomed houses. In the absence of any evidence from the parties we can do no more than rely on own knowledge and experience gained from hearing a large number of objections to registered rents over the years. We consider that rents in the Greater London area as a whole are significantly higher than they would otherwise be as a consequence of scarcity and that in the case of accommodation such as the subject property it is appropriate to make an adjustment to reflect this fact of approximately 20% in assessing the fair rent. We accordingly make a deduction from the market rent of £62 per week to reflect the effect of scarcity on the rent levels to give a fair rent of £248 per week. As a rent had previously been registered for the property it is necessary to consider whether or not this rent can be registered or if The Rent Acts (Maximum Fair Rent) Order 1999 applies to limit the maximum rent which can be registered.

## **The Rent Acts (Maximum Fair Rent) Order 1999**

14. The provisions of the Order do not apply unless a fair rent has been previously registered. Nor do they apply if because of a change in the condition of a dwelling house since the last registration as a result of repairs or improvements carried out by the landlord the rent determined on the new application exceeds the previously registered rent by a least 15%. No such works have been carried out by the landlord and it is therefore necessary to apply the Order.
15. The maximum fair rent calculation was set out on the reverse of the Notice of the Tribunal Decision dated 21 June 2019. The maximum rent which can be registered is less than the fair rent determined by the tribunal and thus the capped amount of £240 per week is to be registered as the fair rent.

**Name:** Patrick M J Casey

**Date:** 8 July 2019

## First-tier Tribunal, Property Chamber Residential Property

### GUIDANCE ON APPEAL

- 1) An appeal to the Upper Tribunal against a decision of a First-tier Tribunal (Property Chamber) can be pursued only if **permission to appeal** has been given. Permission must initially be sought from the First-tier Tribunal. If you are refused permission to appeal by the First-tier Tribunal then you may go on to ask for permission from the Upper Tribunal (Lands Chamber).
- 2) An application to the First-Tier Tribunal for permission to appeal must be made **so that it is received by the Tribunal within 28 days after the date on which the Tribunal sends its reasons for the decision.**
- 3) If made after the 28 days, the application for permission may include a request for an extension of time with the reason why it was not made within time. Unless the application is made in time or within granted extended time, the tribunal must reject the application and refuse permission.
- 4) You must apply for the permission **in writing**, and you must:
  - identify the case by giving the address of the property concerned and the Tribunal's reference number;
  - give the name and address of the applicant and any representative;
  - give the name and address of every respondent and any representative
  - identify the decision or the part of the decision that you want to appeal;
  - state the grounds of appeal and state the result that you are seeking;
  - sign and date the application
  - send a copy of the application to the other party/parties and in the application record that this has been done

The tribunal may give permission on limited grounds.

- 5) When the tribunal receives the application for permission, the tribunal will first consider whether to review the decision. In doing so, it will take into account the overriding objective of dealing with cases fairly and justly; but it cannot review the decision unless it is satisfied that a ground of appeal is likely to be successful.
- 6) On a review the tribunal can
  - correct accidental errors in the decision or in a record of the decision;
  - amend the reasons given for the decision;
  - set aside and re-decide the decision or refer the matter to the Upper Tribunal;
  - decide to take no action in relation to the decision.

If it decides not to review the decision or, upon review, to take no action, the tribunal will then decide whether to give permission to appeal.

- 7) The Tribunal will give the parties written notification of its decision. **If permission to appeal to the Upper Tribunal (Lands Chamber) is granted**, the applicant's notice of intention to appeal must be sent to the registrar of the Upper Tribunal (Lands Chamber) so that it is received by the registrar within **28 days** of the date on which notice of the grant of permission was sent to the parties.
- 8) **If the application to the Property Chamber for permission to appeal is refused**, an application for permission to appeal may be made to the Upper Tribunal. An application to the Upper Tribunal (Lands Chamber) for permission must be made within **14 days** of the date on which you were sent the refusal of permission by the First-tier Tribunal.
- 9) The tribunal can **suspend the effect of its own decision**. If you want to apply for a stay of the implementation of the whole or part of a decision pending the outcome of an appeal, you must make the application for the stay at the same time as applying for permission to appeal and must include reasons for the stay. You must give notice of the application to stay to the other parties.

**These notes are for guidance only. Full details of the relevant procedural provisions are mainly in:**

- the Tribunals, Courts and Enforcement Act 2007;
- the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013;
- The Tribunal Procedure (Upper Tribunal)(Lands Chamber) Rules 2010.

You can get these from the Property Chamber or Lands Chamber web pages or from the Government's official website for legislation or you can buy them from HMSO.

*The Upper Tribunal (Lands Chamber) may be contacted at:*

*5<sup>th</sup> Floor, Rolls Building, 7 Rolls Buildings  
Fetter Lane, London WC4A 1NL*

*Tel: 0207 612 9710*

*Goldfax: 0870 761 7751*

*Email: lands@justice.gov.uk*

The Upper Tribunal (Lands Chamber) form (T601 or T602), Explanatory leaflet and information regarding fees can be found on <https://www.gov.uk/appeal-upper-tribunal-lands/how-to-apply-or-appeal>