



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

Case Reference : **KA/LON/00AW/F77/ 2019/0096**

Property : **122A Kensington Church St,
London W8 4BH**

Applicant : **Chanly Properties Ltd**

Representative : **Mr R Hurd, Director, Chanly
Properties Ltd**

Respondent : **Ms S Griffiths**

Representative : **None**

Type of Application : **Determination of a fair rent under
section 70 of the Rent Act 1977**

Tribunal Members : **Mr Charles Norman FRICS
(Chairman)
Ms Jayam Dalal**

Date of Decision : **2 August 2019**

Date of Reasons : **13 September 2019**

REASONS

Background

1. On 15 March 2019 the landlord applied to the Rent Officer for registration of a fair rent of £27,834 per annum for the above property.
2. The rent payable at the time of the application was £25,400 per annum.
3. On 25 April 2019 the Rent Officer held a consultation at the property in the presence of Mr Richard Hurd representing the landlord and Ms Griffiths, together with her daughter. A copy of the consultation notes was supplied to the Tribunal.
4. On 2 May 2019 the Rent Officer registered a fair rent of £25,400 per annum with effect from the same date.
5. By letter dated 15 May 2019, the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
6. On 12 June 2019 the Tribunal issued directions setting the matter down for determination by written representations. The landlord was directed to serve any documents or evidence upon which it sought to rely by 5 July and the tenant by 19 July 2019. The Directions stated that the Tribunal would inspect the property after 10 am on 2 August 2019. Subsequently the landlord requested a hearing (see below).
7. The Tribunal made its determination on 2 August 2019 and the landlord subsequently requested Reasons.

The Hearing

8. A hearing took place on 2 August 2019 at 10 Alfred Place. At the hearing the landlord was represented by Mr Richard Hurd, Director, Chanly Properties Ltd. The tenant Ms Griffiths did not attend and was not represented.

Inspection

9. The Tribunal inspected the property on 2 August 2019 shortly after the hearing, in the presence of Mr Hurd and Ms Griffiths. The property comprises a self-contained flat arranged over the first and second floors in a three-storey Victorian terraced building with a ground floor shop. Access is via a door on Kensington Church Street, with an internal staircase.
10. The first floor half landing leads to the bathroom which is very basic with fittings approximately 50 years old, timber windows in poor condition and a gas multipoint hot water heater. The first floor includes a large kitchen, which although fitted was in poor condition. The kitchen fittings are tenants' improvements. Windows were timber sliding sash and contained some cracked glazing. The Tribunal noted cracks to the ceiling. The white goods belong to the tenant. The living room to the front of the property is fair sized with two sliding sash timber windows. The Tribunal noted a fireplace which had been blocked up. The second floor comprises two bedrooms with sliding sash timber windows. The Tribunal noted some evidence of damp. The second floor windows required exterior repainting.

11. The property is situated in an attractive high value area although Kensington Church Street is a busy main road.

Evidence

The Landlord's Case

12. The landlord's case was set out in a letter dated 5 July 2019 to the Tribunal, as emphasised by Mr Hurd orally at the hearing. The landlord was prepared to accept the starting point open market rent as assessed by the Rent Officer at £35,100 per annum, although the landlord considered that the rent should be £36,500 per annum. The landlord challenged a deduction made by the Rent Officer of £8,700 per annum to reflect the lower standard of the property. This is because it had been fully refurbished and redecorated in 2001 following reconstruction of the front elevation. The tenant is responsible for all internal decoration and furnishings. Therefore, the lack of redecoration is the tenant's choice and the landlord should not be penalised for this. The matter had previously been considered by a rent assessment committee in 2013 which made a reduction for condition of 20%, which the landlord was prepared to accept. The Rent Officer had now deducted 25% for condition which the landlord considered excessive. The landlord does not have access to the property and cannot force the tenant to redecorate. The landlord did not refer to any comparables. The landlord accepted the Rent Officer's deduction for scarcity of £1000.

The Tenant's Case

13. The tenant's written representations may be summarised as follows. The tenant had lived at the property for 47 years and replaced two kitchens and decorated often. There had been no work or change from the landlord since the last rent increase and the Rent Officer had not considered an increase appropriate. There is no central heating and no double glazing. Adjacent flats have central heating and a second bathroom. A rent increase is unjustified. Rents in the area are falling. The tenant did not refer to any comparables.

The Law

14. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property.
15. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Tribunal* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Tribunal* [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

16. The Tribunal accepted the landlord's submission that the subject property would command a rent of approximately £36,500 per annum if it had been in the condition considered usual for a modern letting at a market rent. However, the subject property is not in such a condition for the following reasons: there is no central heating, no double glazing, poor bathroom, a poor kitchen (on the assumption that the tenants' improvements had not been carried out) and no landlords' white goods. In addition, there was some evidence of damp and external disrepair to windows. Therefore, it was necessary to adjust that hypothetical rent of £36,500 per annum to allow for the differences between the condition considered usual for such a letting and the condition of the actual property. The Tribunal considered that the effect of the condition required an adjustment from the rent of 25% or £9,125 per annum.
17. This leaves an adjusted market rent for the subject property of £27,375 per annum.
18. The Tribunal found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (£5,475 per annum) from the adjusted market rent to reflect this element.
19. It follows that the Tribunal found that the fair rent was £21,900 per annum.
20. This was not limited by the Rent Acts (Maximum Fair Rent) Order 1999, as it fell below that level, the calculations for which were supplied with the Notice of the Tribunal's Decision.

21. Accordingly, the sum of £21,900 per annum was determined as the fair rent with effect from 2 August 2019 being the date of the Tribunal's decision.

*Charles Norman FRICS
Valuer Chairman*

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.