



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

Case Reference : **KA/LON/00AG/F77/2019/0170**

Property : **3a Chalcot Road, Primrose Hill,
London, NW1 8LH**

Landlord : **Grainger Bradley Ltd**

Representative : **In House**

Tenant : **Ms Y Kemp**

Representative : **In Person**

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

Tribunal Members : **Mr Anthony Harris LLM FRICS FCI Arb
Mr A Ring**

Date of Decision : **5 December 2019**

Date of Reasons : **14 January 2020**

REASONS

Background

1. On 8 July 2019, the landlord applied for registration of a fair rent of £931.00 per month.
2. The Rent Officer dealt with the case by holding a consultation at the premises. The landlord did not attend and made no representations. The Rent Officer registered a rent of £793.00 per month. The rent was registered on 22 August 2019 and is effective from 26 September 2019.
3. The Landlord objected to the registered rent by letter dated 16 September 2019 and the matter was referred to the Tribunal.
4. The Tribunal issued directions on 1 October 2019 for proceeding initially on the basis of written representations and an inspection on 5 December 2019 but with either party able to request a hearing. The Tenant requested a hearing and attended. The Landlord made written representations.

Evidence

The Landlord's Case

5. Written representations from the landlord state that the property is a self-contained converted basement flat dating from 1800 to 1918 with central heating. Accommodation consists of 2 rooms, kitchen, bathroom/wc. The tenancy commenced on 1 January 1989.
6. The property is a 1 roomed flat in a desirable area with good public transport access and easy access to other amenities.
7. The landlord seeks a rent of £931.00 per month.
8. Three comparables are provided:

Gloucester Avenue NW1, a one bedroom , one reception room flat let at £1430.00 pcm.

Regents Park Road NW1, a one bedroom , one reception room flat let at £1820.00 pcm.

Fitzroy Road NW1, a one bedroom , one reception room flat let at £1712.00 pcm.

Taking these into account the landlord considers the registered rent should be £931.00. No analysis or other explanation of this figure is provided.

The Tenant's case

9. The Tenant attended the hearing and highlighted the poor condition of the flat, particularly with reference to dampness and mould. The flat is small, dark and low ceilinged and has damp and mould in every room.
10. The flat was rewired in 2015 due to ongoing damp problems resulting in a power socket which blew up in 2010 and which was disconnected by an electrician.
11. Damp reports were obtained by the landlord in 2010, 2011 and 2017 but no work was done to remedy the problem.
12. In the bathroom, tiles are buckling and falling off the wall, the window is rotten and the timber backing to the WC cistern absorbs damp.
13. The bedroom, lounge and hall all show damp crystals and crumbling plaster.
14. At the hearing the Tenant exhibited a letter from Camden Council dated 30 October 2019 indicating they were considering taking enforcement action against the landlord due to a category 1 hazard. A consultation notice addressed to the landlord was included. It is surprising therefore the landlord did not refer to this in their representations.
15. The tenant stated that she considered the landlord's comparables were all much larger and finished to a higher standard.

Inspection

16. The Tribunal attended the property on 5 December 2019.
17. The property comprises a small basement flat which is dark and approached via an external staircase at the front of the house which is a flat fronted Victorian building.
18. The tribunal noted the evidence of dampness and the other defects in the property highlighted by the tenant and the letter from Camden and considered the complaints to be justified. The landlord is responsible for the repairs under the tenancy.
19. The tribunal agrees with the tenants assessment of the landlord's comparables.

The Law

20. When determining a fair rent, the tribunal, in accordance with section 70 of the Rent Act 1977, has regard to all the circumstances (other than

personal circumstances) including the age, location and state of repair of the property.

21. 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 emphasized 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.
22. The rent has been previously registered and the Rent Acts (Maximum Fair Rent) Order 1999 therefore applies.

Discussion and Valuation

23. The evidence of rent provided by the landlord is of limited assistance due to the difference in quality of the properties. The tribunal has considered the landlords comparables and finds they all need substantial adjustment for condition and the terms of the tenancy as compared with AST lettings. The tribunal also relied on its knowledge and experience and finds that if the flat were to be let in the open market on an AST and in the condition the market expects then it would achieve a rent of £1750 per month.
24. Relying on its knowledge and experience in the absence of any evidence from the parties the tribunal considers the appropriate deduction for conditions and tenancy terms to be 50%.
25. The tribunal found that there was substantial scarcity of letting property in the locality of Greater London and using its knowledge and experience made a deduction of 20% from the adjusted market rent. The calculation of the s70 rent is set out below.

Market rent		£	1,750.00
less condition	50%	-£	<u>875.00</u>
adjusted rent		£	875.00
less scarcity off adj rent	20%	-£	<u>175.00</u>
Fair rent		£	700.00

Capped rent

26. In accordance with the Rent Acts (Maximum Fair Rent) Order 1999 the maximum rent is the previous registered rent increased in accordance with the Order which provides for the previous rent to be increased by the percentage increase in the retail prices index plus 5% if the application is a second or later application since 1 February 1999.
27. The retail prices index figure to be used is the figure published in the month before the decision. The decision was made in December, and the figure published in November is that for October which was 294.4 and which is the upper figure to be used. The index at the date of the last registration was 274.7. Applying the formula produces a maximum fair rent of £896.50 per month which is above the s70 rent of £700.00 per month and therefore the s70 rent of £700.00 per month is to be registered.
28. The effective date is the date of the decision.

**Anthony Harris LLM FRICS FCIArb
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.