



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

**Case Reference** : **FL/LOM/00AW/F77/2019/0143**

**Property** : **Ground floor flat, 45 Ifield Rd,  
London SW10 9AX**

**Applicant** : **Northumberland & Durham  
Property Trust Ltd**

**Representative** : **Ms Jasmine Williamson (written  
representations)**

**Respondent** : **Ms JL Washington**

**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)  
Mr Alan Ring**

**Date of Decision** : **3 October 2019**

**Date of Reasons** : **31 December 2019**

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**REASONS**

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## **Background**

1. On 28 May 2019 the landlord applied to the Rent Officer for registration of a fair rent of £869.41 per month per month for the above property.
2. The rent payable at the time of the application was £652.50 per month.
3. On 8 July 2019 the Rent Officer registered a fair rent of £726 per calendar month with effect from 6 August 2019.
4. By a letter dated 26 July 2019 the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. On 12 August 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 6 September 2019 and the tenant by 20 September 2019. The landlord was permitted to provide a brief reply by 27 September 2019. The Directions stated that the Tribunal would determine the matter on 3 October 2019 and inspect the property on the same day after 10 am.
6. The Tribunal made its determination on 3 October 2019 and the landlord subsequently requested Reasons.

## **Inspection**

7. The Tribunal inspected the property on 3 October 2019 in the presence of the tenant. The landlord was not represented.
8. 

The

property comprises a studio flat forming part of the ground floor comprising bedsitting room, kitchen and bathroom in a converted Victorian building. There is central heating. Windows are single glazed. Electric cables are surface mounted as is pipework. The bedsitting room was of fair size, as was the bathroom. The kitchen was relatively large and fitted, but sparsely. The white goods belong to the tenant. The tenant pointed out that the bedsitting room had been reconfigured and was smaller than previously. The fitted kitchen was installed in around 2011. The Tribunal noted wall damage behind the washing machine. The bathroom comprises bath, WC and wash hand basin and was basic.

## **Evidence**

### The Landlord's Case

9. The landlord submitted that it had improved the property by self-containment works at a cost of £23,985.30 and asked for this to be taken into consideration. The landlord supplied a copy invoice from Kiffin Architects dated 1 May 2018. The project was described as “construction work to 45 Ifield Road Flat A, Flat B ...For the work provided by Concept Construction & Supply Ltd”. The total amount payable (with reference to Interim Certificates, not supplied) was £47,970.60 of which exactly half was attributed by manuscript to the subject flat. No further description of the work either from the architects or from the contractor was supplied to the Tribunal.
10. The landlord supplied several comparables of one-bedroom flats in the vicinity in the rental range £365-£450 per week.

### The tenant's case

11. The tenant did not respond to the appeal.

### **The Law**

12. 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.
13. 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**

14. During its inspection, the Tribunal did not identify any self-containment works that had occurred in relation to the subject flat since the previous registration in 2017. The tenant pointed out that some works had taken place, but these appeared to be minor reconfiguration works. The Tribunal noted that rent register as at 19 June 2017 described the property as being “self-contained”. Therefore, there was no reference to self-containment being new since the previous registration in 2017. This is also consistent with the Rent Officer's notes which stated that “*the landlord has done some works to alter the layout but flat was self-contained prior. Layout altered so*

*tenant has more hallway and door into bedroom from hall rather than via kitchen as before. The landlord has laid new carpets in hallway. The landlord has done some decorating within flat but of poor standard. Bathroom and kitchen have loose fitting windows.”*

15. The Tribunal considered that the property was a studio and not a one-bedroom flat as there was no separate living room. The Tribunal found that had the property been in a condition usual for a modern letting at market rent, it would have commanded a rent of £1,385 per month. However, the Tribunal had to take account of the following factors: the tenant’s white goods; the absence of double glazing; the basic bathroom; surface mounted pipes and cabling and the more onerous tenant obligations as compared to an assured shorthold tenancy. The Tribunal considered that these factors required an adjustment of 30% or £415.50 per month.
16. This left an adjusted market rent for the subject property of £969.50 per month.
17. The Tribunal found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (£193.90 per month) from the adjusted market rent to reflect this element.
18. It follows that the Tribunal found that the fair rent was £969.50 less £193.90 per month, or £775.60, say £775 per month.
19. The Tribunal considered whether Article 2(7) of the Rent Acts (Maximum Fair Rent) Order 1999 would apply. Had it applied, the Maximum Fair Rent cap would have been removed. Without the landlord’s works since the previous registration, the Tribunal found that at an adjustment of 35% rather than 30% would be required for condition. The adjusted market rent would have been £900.25 per month. After adjustment for scarcity at 20%, the fair rent would have been £720.20 per month. The difference would therefore have been £55 per month. This equates to 8.4% of the previous registered rent of £652.50 per month. Accordingly, the Tribunal found that the Maximum Fair Rent Order still applied.
20. Consequently, the amount of the fair rent to be registered was limited by the Rent Acts (Maximum Fair Rent) Order 1999 to £732 per month, the calculations for which were supplied with the Notice of the Tribunal’s Decision.
21. Accordingly, the sum of £732 per month was determined as the fair rent with effect from 3 October 2019. The Tribunal found that of this the amount attributable to services was negligible.

Mr Charles Norman FRICS

## **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.