



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

**Case Reference** : **LON/00BK/F77/ 2019/0139**

**Property** : **10 Princes Court Bryanston Pl,  
London W1H 2DF**

**Applicant** : **Mrs J Heneage**

**Representative** : **Mr Heneage**

**Respondent** : **Dorrington Residential Ltd**

**Representative** : **Ms Julie Zevenster, Allsop Letting  
and Management**

**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** : **15 December 2019**

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**REASONS**

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## **Background**

1. On 24 April 2019 the landlord applied to the Rent Officer for registration of a fair rent of £22,200 per annum for the above property.
2. The rent payable at the time of the application was £18,500 per annum.
3. On 20 June 2019 the Rent Officer held a consultation at the property in the presence of the tenant Mrs Heneage who did not take part in the discussions, Mr Heneage, the tenant's husband and Ms Heneage the tenant's daughter. A copy of the consultation notes was supplied to the Tribunal.
4. On 21 June 2019 the Rent Officer registered a fair rent of £20,505.50 per annum with effect from the same date.
5. By letter dated 18 July 2019, the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
6. On 6 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 and the tenant likewise by 13 September 2019. The tenant was permitted to reply by 20 September 2019. The Directions stated that the Tribunal would inspect the property after 10 am on 3 October 2019. Subsequently the landlord requested a hearing.
7. The Tribunal made its determination on 3 October 2019 and both the landlord and tenant subsequently requested Reasons.

## **The Hearing**

8. A hearing took place on 3 October 2019 at 10 Alfred Place. At the hearing the landlord was represented by Ms Julie Zevenster of Allsop Letting & Management. The tenant was represented by Mr Heneage, her husband.

## **Inspection**

9. The Tribunal inspected the property on 3 October 2019 shortly after the hearing, in the presence of Mr and Mrs Heneage. The property comprises a self-contained flat on the third floor of a mansion block of nine storeys dating from 1928. There is a lift. Heating and hot water is supplied through a communal system.
10. The flat comprises a large entrance hall with two sliding sash windows and radiator. There is an old fitted kitchen with white goods supplied by the tenant and an absence of power points. The bathroom has very

old fittings and was small. The wash hand basin was put in by the tenant. There is a separate WC with a wash hand basin also installed by the tenant. There are two double bedrooms, one with a bay window. The living room is of fair size. There are radiators throughout the property.

11. The property is situated in the heart of the West End equidistant between Edgware Road and Marble Arch underground stations. This is a highly desirable and high value location.

## **Evidence**

### The Landlord's Case

12. The landlord's case was set out in a letter dated 6 September 2019 to the Tribunal, as referred to by Ms Zevenster orally at the hearing. In that letter, the landlord referred to 3 other flats nearby, two with asking rents of being £32,496 per annum and one of £32,244 per annum. The landlords contended for a market rent, had the property been let as an assured shorthold tenancy, of £32,412 per annum. In addition, the landlord accepted that two downward adjustments of £1,500 each were required in respect of (i) carpets and white goods and (ii) the condition of the kitchen and bathroom. The landlord did not consider that any deduction for scarcity was appropriate. This gave a fair rent of £29,412 per annum. The landlord accepted that the rent was subject to capping provisions under the Rent Acts (Maximum Fair Rent) Order 1999 and therefore contended for fair rent of £20,529.

### The Tenant's Case

13. The tenant's oral submissions (including matters referred to during the rent officer consultation) may be summarised as follows. The tenant had lived at the property since 1968. The property must be considered as a shell without kitchen cupboards, washing machine or fitted cupboards in bedrooms. The kitchen has a Belfast sink with wooden draining board and without room for a refrigerator. There were no curtains or blinds, which are essential features for flat. The comparable properties referred to by Allsop had been done up. Further, asking rents were not helpful.

## **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 £32,400 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 a poor bathroom, a poor kitchen and no landlords' white goods. Therefore, it was necessary to adjust that hypothetical rent of £32,400 per annum to allow for the differences between the condition considered usual for such a letting and the condition of the actual property. In making this calculation, the Tribunal first deducted the amount for services of £3,747 as this amount did not relate to the condition of the flat. This gave a sum of £28,653. The Tribunal considered that the effect of the condition required an adjustment from the net rent of 20% or £5,731 per annum. This left an adjusted market rent for the subject property of £22,922 per annum.
17. The Tribunal found that there was substantial scarcity in the locality of Greater London. To reflect this, it made a deduction of 20% of the adjusted rent of £22,992, (net of the amount for services of £3,747). This therefore required an adjustment for scarcity of £4,584 per annum which gave a net rent of £18,338 per annum. It was then necessary to add back services of £3,747. The calculation was therefore as follows:

Market Rent						£ 32,400
Less services					£ 3,747	
						£ 28,653
Adjust for condition 20%					£ 5,731	
						£ 22,922
Adjust for scarcity					£ 4,584	
						£ 18,338
Add back services					£ 3,747	
Fair Rent subject to the effect of the Maximum Fair Rent Order						£ 22,085

18. It follows that the Tribunal found that absent the Rent Acts (Maximum Fair Rent) Order 1999, the fair rent would have been £22,085 per annum.

19. However, this amount was limited by the Rent Acts (Maximum Fair Rent) Order 1999, which prescribed a maximum fair rent of £20,743.50 per annum, the calculations for which were supplied with the Notice of the Tribunal's Decision.
20. Accordingly, the sum of £20,743.50 per annum was determined as the fair rent with effect from 3 October 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.