



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

**Case Reference** : **KA/LON/00AG/F77/2019/0169**

**Property** : **5 Primrose Hill Gardens, Fitzroy Road,  
London NW1 8TR**

**Landlord** : **Bromley Property Investments Ltd**

**Representative** : **Grainger Residential Management Ltd**

**Tenant** : **Mr S Bobrof**

**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** : **27 January 2020**

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**REASONS**

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## **Background**

1. On 17 July 2019, the landlord applied for registration of a fair rent of £2169.00 per month.
2. The Rent Officer dealt with the case without holding a consultation. The landlord made no representations. The Rent Officer registered a rent of £1930.00 per month. The rent was registered on 4 September 2019 and is effective from 10 October 2019.
3. The Landlord objected to the registered rent by letter dated 19 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. Neither party requested a hearing and neither made written representations.
5. The tribunal made its decision on 5 December 2019 and the decision was sent out on 6 December to both parties. The landlord wrote on 15 January 2020 requesting the decision and reasons. Given a possible doubt that the landlord had received the decision on time the request for reasons was accepted.

## **Evidence**

### The Landlord's Case

6. No representations were received from the Landlord.

### The Tenant's Case

7. The Tenant attended the inspection but made no representations.

## **Inspection**

8. The tribunal attended the property on 5 December 2019.
9. The property comprises an individual mews house originally built as a studio with double height accommodation on the ground floor and a gallery room off the main studio. Accommodation consists of 2 rooms, kitchen, bathroom/WC and a utility room. The tribunal understood that the tenant was responsible for decorations and had refitted the kitchen and bathroom.
10. The property is in a quiet mews developed with similar properties originally built for use by artists as shown on a board in the mews.

## The Law

11. 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.
12. 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.
13. The rent has been previously registered and the Rent Acts (Maximum Fair Rent) Order 1999 therefore applies.

## Discussion and Valuation

14. In the absence of any evidence from the parties, the tribunal 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 £4000.00 per month.
15. The property was not in that assumed condition or let on those terms and relying on its knowledge and experience in the absence of any evidence from the parties the tribunal considers the appropriate deduction for condition and tenancy terms to be 40%.
16. 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		£	4,000.00
less condition and terms	40%	-£	<u>1,600.00</u>
adjusted rent		£	2,400.00
less scarcity off adj rent	20%	-£	<u>480.00</u>
Fair rent		£	1,920.00

## **Capped rent**

17. 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.
18. 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 290.4 and which is the upper figure to be used. The index at the date of the last registration was 275.10. Applying the formula produces a maximum fair rent of £2085.50 per month which is above the s70 rent of £1920.00 per month and therefore the s70 rent of £1920.00 per month is to be registered.
19. The effective date is the date of the decision.

**Anthony Harris LLM FRICS FCI Arb  
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.