



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

Case Reference : **LON/00AW/F77/2019/0153**

Property : **48 First Street, London SW3 2LT**

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

Representative : **Ms Rebecca Linnell (written
representations)**

Respondent : **Mr Owen Inskip**

Representative : **In person (written representations)**

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

Tribunal Members : **Mr Charles Norman FRICS
(Chairman)
Mr Leslie Packer**

Date of Decision : **1 November 2019**

Date of Reasons : **27 January 2020**

REASONS

Background

1. On 26 June 2019 the landlord applied to the Rent Officer for registration of a fair rent of £6,480 per quarter for the above property.
2. The rent payable at the time of the application was £5,635 per quarter.
3. On 22 July 2019 the Rent Officer registered a fair rent of £5,900 per quarter with effect from 15 September 2019.
4. By a letter dated 13 August 2019 the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. On 3 September 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 17 September 2019 and the tenant by 11 October 2019. The landlord was permitted to provide a brief Reply by 17 October 2019. The Directions stated that the Tribunal would determine the matter on 25 October 2019 and inspect the property on the same day after 10 AM. On 25 October 2019 the Tribunal wrote to the parties to inform them that matter would be determined on 1 November 2019 and that the Tribunal would inspect sometime after 10:30 AM on that day.
6. The Tribunal made its determination on 1 November 2019 and the landlord subsequently requested Reasons.
7. In 2017, the Tribunal determined the fair rent in respect of the property in respect of which Reasons had been given (“the 2017 Reasons”).

Inspection

8. At the time of its inspection on 1 November 2019, internal access was not provided and the Tribunal therefore viewed the property externally, unaccompanied by the either party. Consequently, the Tribunal relied upon other sources of information provided to it by the parties, Rent Officer and information contained in the 2017 Reasons (see above).
9. The property comprises a Victorian mid-terrace house arranged on lower ground, ground and first floors. The building is of part rendered brick construction. First Street is a quiet residential road in Chelsea, an area of high rental values.
10. The property had been let in a poor condition many decades ago with the tenant carrying out extensive repairs. The exterior of the property was in a fair state of repair and decoration.

11. From information provided to the Tribunal, the tenant had upgraded the property over many years at his own expense. Therefore, such tenants' improvements as gas central heating, modern bathroom, modern kitchen and the overall improved condition of the property were disregarded by the Tribunal as required under section 70(3)(b) of the Rent Act 1977.

Evidence

The Landlord's Case

12. The landlord submitted that this was a four room property with reception, in a desirable area. It was well served by public transport. The landlord referred to its fair rent application as being £5,900 per quarter (which was less than that stated the application form for the registration of a fair rent) and referred to 3 comparables. These gave a wide range of rents between £96,200 and £44,200 per annum. Agents details were provided.

The tenant's case

13. The tenant submitted that two of three comparables had undergone extensive refurbishment works costing upwards of £500,000, both had large rear extensions and an additional top floor added. Both exceeded 1800 ft². In contrast, the tenant's floor area calculation in respect of the subject property was 1108 ft². The property was in a decrepit condition when taken in 1986 and the tenant had spent a considerable sum on it including new bathroom, kitchen and shower room, roof repairs, new central heating and plumbing, partial rewiring, and internal and external decoration.

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). In addition, tenants' improvements must be disregarded (see above).

Valuation

16. The Tribunal accepted the tenant's submission that the houses in Ovington Street and Hasker Street had been enlarged and were substantially larger than the subject property and non-comparable. The Tribunal considered that the comparable in Ovington Mews (£44,200 per annum) was more comparable but considered that it was smaller than the subject property.
17. Having regard to the above matters the Tribunal found that rent for the subject property, had it been let in a modernised and good condition, would have been £15,000 per quarter. However, the extensive improvements carried out by the tenant must be disregarded and in addition, the absence of white goods curtains and carpets taken into account. In aggregate the Tribunal considered that these matters required an adjustment of 50%, giving an adjusted rental value of £7,500 per quarter.
18. The Tribunal found that there was substantial scarcity in the locality of Greater London which required a further rental adjustment of 20% or £1,500 per quarter. Therefore, the uncapped fair rent was £6,000 per quarter.
19. The Tribunal found that the maximum fair rent under the Rent Acts (Maximum Fair Rent) Order 1999 was £6,242.50 per quarter. Therefore, the cap did not affect the fair rent to be registered. Accordingly, the fair rent of £6,000 per quarter was determined by the Tribunal with effect from 1 November 2019 being the date of the Tribunal's decision.

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.