



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

Case reference : **LON/00AP/F77/2019/0200**

Property : **First Floor Flat, No. 6, 32 Haslemere Road, London N8 9RB**

Applicant : **Redrise Limited**

Representative: : **One to One Estates**

Respondent : **Miss Wendy Levett**

Date of application : **4 September 2019**

Type of application : **Determination of the registered rent under Section 70 Rent Act 1977**

Tribunal : **Mr I B Holdsworth FRICS MCI Arb
Mr John Edward Francis QPM**

Date and venue of hearing : **10 January 2020
10 Alfred Place, London WC1E 7LR**

DECISION

The sum that will be registered as a fair rent with effect from the 10 January 2020 is **£156.00 per week**, inclusive of service charges. No fuel allowance is included in this sum.

Background

1. The Landlord applied to the Rent Officer for the registration of a fair rent on the 4 September 2019. The fair rent was registered as £160.00 per week on the 10 October 2019, effective from the 26 November 2019. The rent included £3.91 for the cost of services.
2. The Landlord subsequently challenged the revised registered rent and the Rent Officer has requested the matter be referred to the Tribunal for a determination.
3. Directions were issued following receipt of the objection. The Directions state that the application was suitable for determination on the basis of written submissions without an oral hearing.
4. The Tribunal had previously informed the parties of their right to request an oral hearing, but no such requests were received and, accordingly, we have determined the fair rent on the basis of any written submissions.
5. The parties were invited to submit any information on market rents in the area for similar properties; they were also invited to offer any details of the repairs and improvements made to the property by the Landlord or Tenant.
6. A written submission was received from the Landlords' representative. They provided details of agreed rents for similar styled property in the locality, described by the Landlord as "*Outer North London*" as well as the subject building. They also asked whether an error had been made in the determination of the rent by the Rent Officer. The Tenant made no written submission.

Inspection

7. An inspection of the property was carried out on the 10 January 2020.
8. The inspection revealed the property as a first-floor flat in three storey brick built premises with a pitched and slated roof. The premises were built as a single dwelling which had been subsequently divided into ten self-contained dwellings.
9. The accommodation comprised: bedroom/sitting room with galley kitchen and separate bathroom/WC.
10. The kitchen fitments were in poor condition. The fitments were obsolete and dated. There were many damaged tiles.
11. There were poor quality sanitary fittings. A gas boiler was situated in the bathroom/WC which provided hot water only. There was no central heating to this dwelling. The tenant heated the property from electric and oil heaters.

12. The Tenant advised that she had provided the bed, adjacent lamp and cupboards. She also advised that the sash windows were damaged and ill-fitting.
13. The Tenant confirmed that she had carried out no improvements to the premises during the currency of the tenancy.

The law

14. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, 'the Act', it had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
15. In **Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee (1995)** and **Curtis v London Rent Assessment Committee [1999]** the Court of Appeal emphasised that ordinarily a fair rent is the market rent for the property discounted for 'scarcity'. This is 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.
16. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
17. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.
18. The Upper Tribunal in **Trustees of the Israel Moss Children's Trust v Bandy [2015]** explained the duty of the First Tier Tribunal to present comprehensive and cogent fair rent findings. These directions are applied in this decision.
19. **The Rent Acts (Maximum Fair Rent) Order 1999** applies to all dwelling houses where an application for the registration of a new rent is made after the date of the Order and there is an existing registered rent under part IV of the Act. This article restricts any rental increase to 5% above the previously registered rent. The article is not applied should the Tribunal assess that as a consequence of repairs or improvements carried out by the landlord the rent that is determined in response to an application for a new rent registration exceeds by at least 15% the previous rent registered.

Valuation

20. In the first instance the Tribunal determined what rent the Landlord could reasonably be expected to obtain for the property in the open market if it

were let today in the condition that is considered usual for such an open market letting. It did this by having regard to their general knowledge of market rent levels in this area of North London.

21. This hypothetical rent is adjusted as necessary to allow for the differences between the terms and condition considered usual for such a letting and the condition of the actual property at the date of the inspection. Any rental benefit derived from Tenant's improvements is disregarded. It is also necessary to disregard the effect of any disrepair or other defects attributable to the Tenant or any predecessor in title. No adjustments are made to the transaction evidence in assessment of the rent for this property.
22. The provisions of section 70(2) of the Rent Act 1977 in effect require the elimination of what is called "scarcity". The required assumption is of a neutral market. Where a Tribunal considers that there is, in fact, substantial scarcity, it must make an adjustment to the rent to reflect that circumstance. In the present case neither party provided evidence with regard to scarcity.
23. The Tribunal then considered the decision of the High Court in **Yeomans Row Management Ltd v London Rent Assessment Committee [2002] EWHC 835 (Admin)** which required it to consider scarcity over a wide area rather than limit it to a particular locality. North London is now considered to be an appropriate area to use as a yardstick for measuring scarcity and it is clear that there is a substantial measure of scarcity in North London.
24. Assessing a scarcity percentage cannot be a precise arithmetical calculation. It can only be a judgement based on the years of experience of members of the Tribunal. The Tribunal therefore relied on its own combined knowledge and experience of the supply and demand for similar properties on the terms of the regulated tenancy (other than as to rent) and in particular to unfulfilled demand for such accommodation. In doing so, the Tribunal found that there was substantial scarcity in the locality of North London and therefore made a further deduction of 20% from the adjusted market rent to reflect this element.
25. The valuation of a fair rent is an exercise that relies upon relevant market rent comparable transactions and property specific adjustments. The fair rents charged for other similar properties in the locality do not form relevant transaction evidence.
26. After careful consideration of the available evidence the Tribunal decided that the market rent for a property of this type in the same condition as those available to let on the open market is £260.00 per week.
27. Table 1 below provides details of the fair rent calculation:

Property: Flat 6 32 Haslemere Road London N8 9RB			
Fair rent calculation in accordance with s(70) Rent Act 1977			
Market rent		£260.00	per week
Disregards		Deduction per week	as % weekly rent
Carpets , curtains white, goods, soft furnishing		£19.50	7.50%
Dilapidations		Deduction per week	as % weekly rent
Defective windows		£6.50	2.50%
No central heating		£26.00	10.00%
Dated kitchen and bathroom fittings		£13.00	5.00%
	Total deductions	£65.00	25.00%
	Adjusted Rent balance	£195.00	
Less Scarcity 20.00%		£39.00	
Adjusted Market Rent		£ 156.00	per week Uncapped rent
Capped rent in accordance with <i>Rent Acts (Maximum Fair Rent) Order 1999</i>		£ 183.00	per week Capped rent

Decision

28. The Rent Acts (Maximum Fair Rent) Order will not apply to this determination. The fair rent determined by the Tribunal falls below the capped rent.
29. By virtue of the Rent Acts (Maximum Fair Rent) Order 1999, the maximum uncapped fair rent that can be registered at this property is £183.00 per week.
30. The statutory formula applied to the previous registered rent to calculate the capped rent is at Annex A. Details of the maximum fair rent calculations were provided with the original Notice of Decision.
31. Accordingly, the sum that will be registered as a fair rent with effect from the **10 January 2020 is £156.00 per week**, inclusive of £3.91 services charges. No fuel allowance is included in this sum.

Chairman: I B Holdsworth

Dated: 29 January 2020

Annex A: The Rents Act (Maximum Fair Rent) Order 1999

- 2 (1) Where this article applies, the amount to be registered as the rent of the dwelling-house under Part IV shall not, subject to paragraph (5), exceed the maximum fair rent calculated in accordance with the formula set out in paragraph (2).

- (2) The formula is –

$$\text{MFR} = \text{LR} \left[1 + \frac{(x-y)}{y} + P \right]$$

where –

MFR is the maximum fair rent;

LR is the amount of the existing registered rent to the dwelling house;

x is the index published in the month immediately preceding the month in which the determination of a fair rent is made under Part IV;

y is the published index for the month in which the rent was last registered under Part IV before the date of the application for registration of a new rent; and

P is 0.075 for the first application for rent registration of the dwelling-house after this Order comes into force and 0.05 for every subsequent application.

- (3) Where the maximum fair rent calculated in accordance with paragraph (2) is not an integral multiple of 50 pence the maximum fair rent shall be that amount rounded up to the nearest integral multiple of 50 pence.
- (4) If $\frac{(x-y)}{y} + P$ is less than zero the maximum fair rent shall be the existing registered rent.