



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

Case Reference : **FL/LON/00BG/F77/2019/0212**

Property : **83 Canrobert Street London E2
6PX**

Applicant : **GRIP UK Property Developments
Limited**

Representative : **Grainger PLC**

Respondent : **Mr George Brooks**

Representative : **In person**

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

Tribunal Members : **Mr Charles Norman FRICS (Valuer
Chairman)
Mrs Jackie Hawkins**

Date of Decision : **17 January 2020**

Date of Reasons : **10 February 2020**

REASONS

Background

1. On 23 August 2019 the landlord applied to the Rent Officer for registration of a fair rent of £420 per week for the above property.
2. The rent payable at the time of the application was £177.50 per week.
3. On 8 October 2019, the Rent Officer held a consultation at the property in the presence of the tenant, and the tenant's son. The landlord was not represented. From the notes of the consultation, the tenant objected to the proposed rent increase for the following reasons: there was a rent increase only one year previously; the water tank was removed from under the stairs but not made good leaving exposed timber; the tenant could not open any of the windows; there was damp in a corner of the living room under the window; a central heating radiator was placed over the damaged wall without repair work being carried out; the tenant had rewired the whole house many years ago on the condition that the landlord installed a bath.
4. On 17 October 2019 the Rent Officer registered a fair rent of £191.50 per week with effect from the same date. The Rent Officer also included a remark that the uncapped rent was £405 per week.
5. By letter dated 5 November 2019, the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
6. On 6 December 2019, the Tribunal issued directions setting the matter down for determination by written representations, unless either party requested a hearing by 20 December 2019, which neither did. The landlord was directed to serve any documents or evidence upon which it sought to rely by 20 December 2019 and the tenant likewise by 3 January 2020. The landlord was permitted to make a Reply by 10 January 2020. The Directions stated that the Tribunal would inspect the property after 10 am on 17 January 2020.
7. The Tribunal made its determination on 17 January 2020 but decided that the decision should be issued with Reasons and communicated this to the parties.

Inspection

8. The Tribunal inspected the property on 17 January 2020, in the presence of the tenant and Mr Paul Brooks, the tenant's son. The landlord was not represented. The property comprises a three-storey mid-terrace Victorian townhouse dating from approximately 1860. The property is of brick construction under pitched roofs. The windows are timber

sliding sash. The Tribunal found the overall condition to be fair, except for the windows which are generally in very poor condition, except for a replacement window on the second floor. Since the last rent registration, the landlord has installed gas central heating (see below). On ground floor is a bathroom installed approximately 50 years ago, comprising bath, WC, wash hand basin. There is a central heating radiator. The tenant has installed an electric shower and wall tiling as improvements. The kitchen was fitted by the tenant about 40 years ago and includes floor and wall units as tenants' improvements. The white goods belong to the tenant. The Tribunal noted that the sliding sash window to the kitchen was in very poor condition. The ground floor reception room is fairly small and the Tribunal noted evidence of wallpaper staining caused by damp. The first floor front room (used as a reception room) has sliding sash windows and two small radiators. The rear room is used as a bedroom (small double) with a sliding sash timber window in very poor condition. There is a central heating radiator. At second floor, the rear room is a double bedroom with new single glazed timber sash window and radiator. The Tribunal noted damp wallpaper, damp and mould evidence to the ceiling and a smell of damp. The second floor front bedroom is a large double with radiator and with sliding sash timber windows in poor condition. The Tribunal noted a smell of damp. The Tribunal noted a significant crack in the wall to the staircase and a further window in the staircase in very poor condition. To the rear of the property is a small yard. The property is situated in Bethnal green, in close proximity to the City.

Evidence

The Landlord's Case

9. The landlord did not respond to the directions sent by the Tribunal, but the Tribunal was forwarded by the Rent Officer a letter dated 23 August 2019. This stated that since the last registration the landlord had improved the property with a new boiler and radiators at a cost of £8,876.40 and asked that this be taken into account. Invoices were supplied.

The Tenant's Case

10. The tenant did not provide a written response to the directions but provided access for the Tribunal's inspection.

The Law

11. 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.

12. 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

13. As neither party referred to any comparables, the Tribunal considered whether the starting point adopted by the Rent Officer in her calculations was correct. This was £670 per week which would apply to a modern letting of a similar property in a good and fully modernised condition. Having regard to the nature of the property, being a four bedroomed townhouse with central heating in Bethnal Green, the Tribunal agreed with Rent Officer as a starting point. The Tribunal then proceeded to make downwards adjustments to reflect the condition of the subject property based on its inspection. The Tribunal considered that the following adjustments were necessary:

Kitchen/white goods	10%
Bathroom	10%
Windows	10%
Crack in staircase hall, mould, damp	10%
Tenant providing carpets and curtains	5%
Total	45%

14. Therefore, the Tribunal considered that the adjusted rent was £670 less 45% (£301.50) or £368.50 per week.
15. The Tribunal found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (£73.60 per week) from the adjusted market rent to reflect this element.
16. It follows that the Tribunal found that the fair rent was £294.90 per week (rounded up to £295 per week), unless capping under the Rent Acts (Maximum Fair Rent) Order 1999 continued to apply. The most significant part of the Order in relation to this case is as follows:

2 (7) This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is

determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.

17. The Tribunal was therefore required to consider whether the central heating installation would have increased the previous rent of £177.50 per week, by more than 15% of £177.50. This is £26.63 per week.
18. In order to assess this, the Tribunal considered the rent adjustments that would be required to assess the fair rent now if there was no central heating. It found that these would be as follows:

Kitchen /white goods	10%
Central heating	10%
Bathroom	10%
Windows	10%
Crack in staircase hall, mould, damp	10%
Tenant providing carpets and curtains	5%
Total	55%

19. Therefore, without central heating, the rent to be registered would be £670 less 55% (£368.50) or £301.50 per week, less an adjustment for scarcity of 20% (£60.30 per week). This would leave £241.20 which the tribunal rounds to £241.50 per week.
20. Therefore, the difference in the rent to be registered with and without central heating would be £295 less £241.50 or £53.50 per week. This greatly exceeds the 15% threshold of £26.63 per week in relation to the previous registered rent of £177.50 (see above). Therefore, after careful consideration, the Tribunal found that the Rent Acts (Maximum Fair Rent) Order did not apply to this registration.
21. For the above reasons the Tribunal found that the fair rent in respect of the property was £295 per week with effect from 17 January 2020 being the date of the Tribunal's decision.

Mr Charles Norman FRICS
10 February 2020

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.