



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

**Case Reference** : **KA/LON/00BK/F77/2019/0225**

**Property** : **23 Abbots House, Aylesford Street,  
London SW1V 3RN**

**Landlord** : **Peabody**

**Representative** : **None**

**Tenant** : **Mr H Dardis**

**Representative** : **Ms A Palmer (Daughter)**

**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 L Packer**

**Date of Decision** : **21 February 2020**

**Date of Reasons** : **21 February 2020**

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**REASONS**

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## **Background**

1. On 30 September 2019, the landlord applied for registration of a fair rent of £191.34 per week including a noted amount for services of £9.94 per week.
2. The Rent Officer registered a rent of £193.00 per week including services of £9.94. The rent is not registered as variable. The rent was registered on 14 November 2019 and is effective from the same date.
3. The tenant objected to the registered rent by letter dated 8 December 2019 and the matter was referred to the Tribunal.
4. The Tribunal issued directions on 19 December 2019 for proceeding initially on the basis of written representations only without an inspection during the week commencing on 17 February 2020 but with either party able to request an inspection or hearing. No requests were made and the Tenant made written representations.

## **Evidence**

### The Landlord's Case

5. No evidence was submitted by the landlord. The tribunal had regard to the initial application for a registered rent and the service charge schedule submitted with it.

### The Tenant's case

6. The Tenant wrote to the tribunal setting out a calculation based on the rent being paid and uplifted by the capping formula. However the correct starting point is the previous registered rent which was more than the rent actually paid.

## **Inspection**

7. There was no inspection and the tribunal dealt with the matter on the papers. The tribunal also relied on its knowledge and experience.

## **The Law**

8. 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.

9. 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.
10. The rent has been previously registered and the Rent Acts (Maximum Fair Rent) Order 1999 therefore applies.

### **Discussion and Valuation**

11. No rental evidence was supplied by either party and the tribunal therefore relied on its knowledge and experience of such flats in assessing the rent in accordance with section 70 of the Rent Act. The tribunal considers that if this flat were to be let in the open market on ordinary assured shorthold tenancy terms with the usual carpets curtains and white goods. it would attract a rent of £525.00 per week.
12. Relying on its knowledge and experience in the absence of any evidence from the parties the tribunal considers the appropriate deduction for conditions and tenancy terms to be 25%.
13. 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.

		per week
Market rent		£ 525.00
less condition	25%	<u>-£ 131.25</u>
		£ 393.75
less scarcity	20%	<u>-£ 78.75</u>
Fair rent		£ 315.00

## **Capped rent**

14. 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.
15. The retail prices index figure to be used is the figure published in the month before the decision. The decision was made in February, and the figure published in January is that for December which was 291.9 and which is the upper figure to be used. The index at the date of the last registration was 275.3. Applying the formula produces a maximum fair rent of £193.50 per week which is below the s70 rent of £315.00 per week and therefore the capped rent of £193.50 per week is to be registered.
16. The effective date is the date of the decision.
17. The tribunal notes from the papers that the rent paid by the tenant is below the previous registered rent. A registered rent is the maximum rent which a landlord can charge and does not necessarily reflect the figure which the landlord will charge following this registration. This is a matter to be agreed between the landlord and tenant.

**Anthony Harris LLM FRICS FCIArb  
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.