



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

**Case Reference** : LON/00AY/F77/2020/0085

**Type of Determination** : P (Paper) Remote.  
13 Aldwyn House, Davidson Gardens,  
**Property** : London SW8 2HX.

**Applicant** : Grainger Investment No. 2 LLP

**Representative** : Grainger Residential Management Ltd.

**Respondent** : Mr. R. Pountain.

**Representative** : In person.

**Type of Application** : Rent Act 1977 (“the Act”) Determination of  
the fair rent of a property following an  
objection to the rent registered by the Rent  
Officer  
Ms. A. Hamilton-Farey

**Tribunal Member(s)** :

**Date of Decision** : 12 October 2020,  
Date of Reasons 29 October 2020.

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DECISION

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### **Covid-19 pandemic: description of hearing:**

This has been a remote determination on the papers which has not been objected to by the parties. The form of remote hearing was P: PAPERRMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined on paper]. The documents that I was referred to are in an application and supporting documents, including black and white photographs supplied by the applicant. No documents, except consent to the paper determination has been received from the respondent landlord. I have noted the correspondence in reaching my decision. The order made is described at the end of these reasons.

### **Background:**

1. By an RR1 dated 30 January 2020 the landlord made an application to register the rent of the property at £197.00 per week. No services are provided under the tenancy. The fair rent passing at that time was £182.50, effective from 28 April 2018.
2. On 6 March 2020, the Rent Officer registered the rent at £200.00 per week with effect from 28 April 2020.
3. The tenant objected and the matter was referred to the First Tier Tribunal, Property Chamber.
4. Directions were issued by the tribunal on 10 August 2020 that requested the parties to confirm their agreement to the matter being determined on the papers. Both parties confirmed they were content with this way forward.
5. The tribunal also requested the parties to make submissions in relation to the property, the rent set by the rent officer and provide details of comparable property rents in the vicinity. The landlord produced a table with three comparable properties, with rents ranging from £200.50 to £210.50 per week (all fair rents) and with uncapped rents in the region of £300 to £325 per week.
6. The tenant made written submissions to say that he had carried out significant improvements to the property, including the replacement of the kitchen and bathroom, doors, architraves and skirting boards. He said that the decorative condition was good and had been maintained by himself in accordance with his tenancy.
7. The tenant also said that the windows were draughty despite being double-glazed and that there had been a continuous smell from the drains through to the sink 'over the years'. He finally suggested that a council house around the corner was let at £600.00 per month and where kitchens/bathrooms etc were provided by the landlord, and also that a non-sitting tenant flat around the corner had a rent increase of £64.00 in March 2020. No other details of the lettings were provided.

8. The landlord said that the property was in an excellent location with a good bathroom and kitchen (modernised by the tenant) and full cash central heating. The landlord also said that the property had benefitted from some electrical works in January 2019 including a new fuseboard and re-wiring of the kitchen circuitry. The landlord said that they considered the rent set by the rent officer to be 'more than fair'.

## **Inspection**

9. In accordance with the directions already given, the tribunal did not inspect the property due to the COVID-19 restrictions, but was able to use Google Earth for location purposes, and the applicants photographs and submissions.
10. The property is a second floor flat comprising three bedrooms, kitchen, and bathroom w.c. It has full central heating and has been improved, as has been agreed by the parties, by the tenant.

## **The law**

11. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It must also disregard 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.
12. Case law informs the Tribunal -
  - a. 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
  - b. 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).

## **Consideration and Valuation**

13. In the first instance the tribunal must determine what rent the Landlord could reasonably expect 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, i.e. with carpets, curtains, white goods and in a good decorative condition, and with the tenant having little repairing obligation internally. The Tribunal did this by having regard to the data provided by the rent officer, and the comparable rent details supplied by the landlord. From this the tribunal assessed that the market rent for the property in good condition on a usual AST would command a weekly rental of **£400.00**.

14. However, the rent referred to in the above paragraph is on the basis of a modern open market letting where the tenant has no liability to carry out repairs or decorations, there are up to date bathroom and kitchen fittings, the landlord supplies white goods, carpets and curtains and there are no wants of repair. In my view a deduction from the market rent should be made to reflect the differences of the terms of tenancy, and the hypothetical market letting.
15. The tribunal therefore adjusts the market rent by 5%, to reflect the different terms of the tenancy, and a further 5% to reflect the lack of modernisation, white goods, flooring to some rooms and which the tribunal considers reflects those differences. The tribunal arrived at an adjusted market rent of **£360.00** per week.
16. The tribunal then considered the question of scarcity as referred to in paragraph 9a above and determined that there remained significant levels of demand over supply in this area and therefore make a deduction from the adjusted market rent of 20% to reflect this scarcity, leaving a balance of **£288.00** per week.
17. The tribunal therefore determines that the uncapped Fair Rent is **£288.00 per week** exclusive of council tax and water rates.
18. The capping mechanism produced, a lower figure of **£214.00** per week. Under the Regulations, the tenant is liable for lower of either the adjusted market rent, or the capped rent. In the circumstances the tribunal registers the lower capped rent of **£214.00** per week with effect from 12 October 2020.
19. Consideration was also given to whether the new electrical works had increased the rent by more than 5% so as to exclude the application of the Maximum Fair Rent, no submissions were given by the landlord on this point, and no details of the cost or extent of the works was provided. In the circumstances, the tribunal does not consider that the new fuseboard and some re-wiring would increase the rent sufficiently to apply the MFR exemption. The rent therefore remains capped by the MFR.

**Correction:**

20. In addition, the tribunal wishes to correct an error on the decision document where in paragraph 8(a) is stated the rent that would have

been registered would have been £510.00 per week. This is corrected by these reasons to £288.00 per week.

Name: Ms. A. Hamilton-Farey  
Date 12 October 2020.

### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking