



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

**Case Reference** : LON/00AG/F77/2020/0061

**Type of Determination** : P (Paper) Remote.  
16c College Crescent, London NW3 5LL.

**Property** :

**Applicant** : Ms. S. Mallin

**Representative** : In person.

**Respondent** : Notting Hill Genesis

**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** : 17 September 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 12 December 2019 the landlord made an application to register the rent of the property at £143.64 per week inclusive of services of £6.32. This was in fact a reduction against the current fair rent passing at that time of £153.58 per week inclusive.
2. On 6 February 2020 the Rent Officer registered the rent at £197.82 per week inclusive of services, with effect from 6 February 2020.
3. The tenant objected and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal made directions on 16 July 2020 stating that the application would be determined on the papers without a hearing in accordance with Rule 31 of the Tribunal Procedure Rules unless a party objected and requiring the landlord to send to the tenant and to the tribunal a written statement as to their assessment of the rent and for the tenant to respond. The parties consented to the matter being dealt with on the papers. The tenant, Ms. Mallin made representations and provided black and white photographs of what she called the disrepair in the property. The landlord did not make a submission or provide any photographs.

### **Inspection**

5. 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.
6. The property is contained within a converted house, contained a total of five units. It is not known the tenure of the other units, but that is not a relevant consideration for these purposes. The tenant says that the property is poorly managed by the landlord, that there is no effective cleaning, no security for post deliveries and that repairs to the common parts remain outstanding. I have been provided with a photograph showing a hole in the wall of the common parts. The applicant accepts that, similar to other properties in the vicinity, this property suffers from a reasonable number of cracks to the render, and internal walls. She says that external decorations are poor, that the stair carpet is not

properly secured and that a maintenance inspector employed by her landlord declared the common parts to be unsafe.

7. The property which is on the first floor, comprises two rooms, kitchen and bathroom/w.c, and benefits from full central heating.
8. Neither the landlord nor the tenant claimed to have made any improvements to the property.

### **The parties Representations**

9. Representations were received from the tenant. The tenant stated that she considered the rent set by the rent officer to be too high, and that the landlord had actually asked for a rent decrease. She said that she was actually paying £143.64 per week inclusive of service, even though the registered rent was £153.58. The rent officer's increase therefore represented a £40.00 per week increase which she considered to be disproportionate and too high.

### **The law**

10. 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.
11. 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**

12. In the first instance the Tribunal determined 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, which showed rents in the area for similar properties ranged from £353.46 to £635.00 per week.

13. The tribunal started their valuation at a mid-point in that range and determined that £415.00 per week would be a market rent for the property.
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. I adjust the market rent by 15%, which I consider fairly reflects those differences, and provides an adjusted market rent of £352.75 per week, inclusive.
15. I 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 £283.00 per week, inclusive of services.
16. I therefore determine that the uncapped Fair Rent is £283.00 per week exclusive of council tax and water rates, but inclusive of service charge.
17. This would be the rent that, in my opinion would be payable by the tenant, if the capping mechanism produced a higher rent.
18. The capping mechanism produced a capped fair rent of £195.50 per week inclusive of service charge, and therefore I register that figure as the registered rent with effect from 17 September 2020.
19. The tenant should however be aware, that her landlord is a housing association, and it may be that it will not seek to charge the full rent and follow its previous procedures in this matter. However, the tribunal is unable to determine whether this should be the case and we may only set a fair rent in accordance with the relevant statutory provisions.

Name: Ms. A. Hamilton-Farey  
Date 17 September 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