



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

**Case Reference** : LON/00AE/F77/2020/0104

**Type of Determination** : P (Paper) Remote.  
1b Spezia Road, London NW10 4QJ.

**Property** :

**Applicant** : Ms. E. Hansen.

**Representative** : In person.

**Respondent** : Mr. N. Pepler.

**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** : 23 October 2020,  
Date of Reasons 27 November 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 order made is described at the end of these reasons.

### **Background:**

1. By an RR1 dated 24 January 2020 the landlord made an application to register the rent of the property at £700.00 per month in place of the existing rent of £515.00 per month. No services are provided under the tenancy. The fair rent passing at that time was £182.50, effective from 28 April 2018.
2. On 12 March 2020, the Rent Officer registered the rent at £600.00 per month with effect from 12 March 2020.
3. The tenant objected and the matter was referred to the First Tier Tribunal, Property Chamber.
4. Directions were issued by the tribunal 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 tenant made submissions to the effect that the increase was unfair because it represented a 16% increase whereas the increase in 2015 had only been 8%. The tenant said that there had been no changes to the property since the previous registration, and that window frames were in poor repair, were single glazed and a second sash cord had broken. The tenant also said that the property is not insulated and has no central heating, and no improvement had been made since the start of the tenancy.
6. The landlord also made submissions which confirmed that the rent had not been increased for four years, and that if the tenant would make a contribution towards improvements, he would be happy to install double glazing. He also said that if the tenant wished to have the windows repaired at her own cost then he would have no objections. He also made reference to the inequality of the Rent Act, which limited rent increases so that the flat could not be sold at a market value, nor the improvements carried out.
7. When reaching the decision, the representations of the parties have been taken into consideration.

### **Inspection**

8. 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.
9. The property is an unfurnished studio flat, without central heating, comprising a studio room, kitchen and bathroom/w.c.

## **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 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 its own knowledge and experience and widely published data/websites. From this the tribunal assessed that the market rent for the property in good condition on a usual AST would command a monthly rental of **£950.00**.
13. 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 the tribunal's view a deduction from the market rent should be made to reflect the differences of the terms of tenancy, and the hypothetical market letting.
14. The tribunal therefore adjusts the market rent by 5%, to reflect the different terms of the tenancy, and a further 10% to reflect the lack of modernisation,

white goods, modern flooring, and which the tribunal considers reflects those differences. The tribunal arrived at an adjusted market rent of **£807.50** per month.

15. 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 **£646.00** per month.
16. The tribunal therefore determines that the uncapped Fair Rent is **£646.00 per month** exclusive of council tax and water rates.
17. The tribunal is then required to calculate what the rent would be by applying the Maximum Fair Rent capping calculation to the existing fair rent. A copy of the calculation was appended to the decision, and this produced a fair rent of **£607.00 per month**.
18. Under the Regulations, the tenant is liable for lower of either the adjusted market rent (**£646.00**), or the capped rent (**£607.00**). In the circumstances the tribunal registers the lower capped rent of **£607.00** per month with effect from 23 October 2020.

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