



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

Case Reference : **LON/00AC/F77/2020/0023**

HMCTS code : **P: PAPERREMOTE**

Property : **6 Binns Road, London, W4 2BS**

Landlord : **Northumberland and Durham Property Trust Limited**

Representative : **In House**

Tenant : **Miss Marion Greenham**

Representative : **In Person**

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**

Date of Decision : **13 November 2020**

Date of Reasons : **9 December 2020**

REASONS

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers although the Tenant would have preferred a hearing and inspection. The form of remote hearing was P:PAPERREMOTE. The Directions dated 1 September 2020 set out that the tribunal was not able to hold face to face hearings or carry out internal inspections. The documents that the tribunal was referred to are in a bundle of 99 pages, the contents of which have been noted. The decision made is described at the end of these reasons.

Background

1. On 8 November 2019, the Landlord applied for registration of a fair rent of £316.25 per week.
2. The Rent Officer registered a rent of £303.50 per week. The rent was registered on 13 December 2019 and is effective from 30 January 2020. The certificate recorded the uncapped rent was £375 .00 per week.
3. Accommodation is ground floor 2 rooms, kitchen/diner and first floor 3 rooms, bathroom/WC.
4. The previous registered rent was £275.00 per week registered on 28 November 2017 and effective from 30 January 2018.
5. The Tenant objected to the registered rent by letter and the matter was referred to the tribunal.
6. On 15 September 2020, the tribunal issued Directions for proceeding by written representations. Both parties made written representations.

Evidence

The Landlord's Case

7. Written representations from the Landlord describe the location of the house as close to public transport and other amenities.
8. The landlord referred to 3 comparables, the first being Saville Road Chiswick W4 described as being recently let at £4550 per calendar month. The accommodation consists of three double bedrooms, one reception room, two bathrooms and kitchen.
9. Staveley Gardens Chiswick W4 was let at £2253 per month described as having three bedrooms, two bathrooms, a modern kitchen/reception room and garden.
10. Acton Lane Chiswick W4 was let in £2400 per calendar month and is described as having three bedrooms, one reception room and two bathrooms.

11. Details taken from Rightmove of three flats were also included but these are not relevant to the assessment of rent on a house.
12. Taking these comparables into account the landlord submits that a fair rent for the property would be £316.25 per week (£1370 per month).

The Tenant's case

13. The Tenant submitted a letter to the Rent Officer complaining about disrepair which had required the involvement of the Environmental Health Officer. Additionally, photographs were included in the tribunal's papers showing disrepair to the property. This includes unsatisfactory repairs to the bathroom and to the kitchen with the cooker being left disconnected. Other disrepair referred to is large crack in the landing wall.
14. The house has central heating installed by the tenant.
15. In the reply form the third bedroom is described as a box room and not large enough to be used as a bedroom.
16. The tenant did not supply any rental comparables.

Inspection

17. In accordance with the directions the tribunal did not inspect the property. The tribunal took into account the photographs of condition of the property.

The Law

18. 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.
19. 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.
20. The rent has been previously registered, and the Rent Acts (Maximum Fair Rent) Order 1999 therefore applies unless there are significant improvements

made by the Landlord which increase the rent which would be registered by more than 15%.

Discussion and Valuation

21. The Landlords evidence is not of great assistance to the tribunal. Simply listing three properties without any explanation as to how these justified the rent applied for in excess of the capped rent does not assist in the assessment of the section 70 rent. The information supplied on the three comparable houses is insufficient to allow for any meaningful comparison.
22. In the absence of any useful comparable information supplied by the parties, the tribunal relied on its knowledge and experience.
23. The tribunal firstly has to consider the rent in accordance with section 70 of the Rent Act as a market rent less scarcity. The tribunal has considered all of the rental evidence and applied its knowledge and experience and considers that the house of this type in this location and in the condition which the market would expect would be £530.00 per week (£2300 per month). The tribunal has adjusted for the condition of the property, lack of white goods and for the different terms of the tenancy as compared with a standard assured shorthold tenancy and makes a deduction of 35% for these factors.
24. 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		£	530.00
less condition	35%	-£	<u>185.50</u>
adjusted rent		£	344.50
less scarcity off adj			
rent	20%	-£	<u>68.90</u>
Fair rent		£	275.60

Rounded to £276.00

Capped rent

25. 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.

26. The retail prices index figure to be used is the figure published in the month before the decision. The decision was made in November, and the figure published in October is that for September which was 294.3. and which is the upper figure to be used. The index at the date of the last registration was 275.8. Applying the formula produces a maximum fair rent of £307.50 per week which is above the s70 rent of £276.00 per week.
27. The rent to be registered is the lower of the two figures and is the section 70 rent of £276.00 per week.
28. The effective date is the date of the decision.

Anthony Harris LLM FRICS FCI Arb
Valuer Chair

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.