



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

Case Reference : **LON/00BK/F77/2019/0217**

Property : **Flat 21 Craven Lodge, 15-17 Craven Hill,
London W2 3ER**

Landlord : **Grainger Bradley Ltd**

Representative : **Grainger PLC**

Tenant : **Miss N Martin**

Representative : **N/N**

Type of Application : **Determination of a fair rent under section
70 of the Rent Act 1977**

Tribunal Members : **Tribunal Judge Shepherd
Mrs Alison Flynn MA MRICS**

**Date of Decision and
Meeting** : **28 February 2020**

Date of Reasons : **September 2020**

FULL REASONS

Background

1. On 5th August, the Landlord's agent applied to the Rent Officer for a new rent to be registered of £312.78 per week. The existing rent was then £275 per week with effect from 8th September 2017
2. On 16th September, the Rent Officer registered a rent of £275 per week inclusive of services of £25.70 per week , with effect from 11th October 2019. The Landlord objected to this on 3rd October 2019. The matter was then referred to the Residential Property Division of the First Tier Tribunal (Property Division) for determination.
3. There was only an external inspection since access could not be gained. External inspection took place on 28th February 2020 and the Tribunal made its decision on the same day. However, the Landlord's request for extended reasons was inadvertently overlooked by the Tribunal (not the Tribunal's administration) as a result of which these reasons have been delayed. Most of the delay is attributable to the disruption caused by subsequent events relating to the Covid pandemic. The Tribunal sincerely apologises to the parties for the delay.
4. The Landlord's agents supplied details of two-bedroom flats of period properties in the W2 postcode area with rents ranging from £485 to £550 per week. The Tenant supplied written evidence that the windows and walls were not fixed and the bathroom ceiling was not fixed. She also stated in another communication that she did not object to the rent.
5. Neither party requested an oral hearing.

Inspection

6. The Tribunal inspected the property externally on 28th February. It is in a good residential area , north of Bayswater Road and near Kensington Gardens. The area has several garden squares and is typified by stucco-faced Cubitt period properties.
7. Craven Lodge itself is a purpose-built modern block on basement and five upper floors. Externally it appeared to be in good condition though the roof was unsighted. There are communal gardens to the rear of the property.
8. The Rent Register states (and the Tribunal accepts this) that the property is a self contained, fourth floor flat with full central heating. The accommodation comprises two rooms, a kitchen and a bathroom/WC.

The Law

9. 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.
10. 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.

11. The additional factor in this case is whether the rent should be capped under the Maximum Fair Rent Order.
12. The rent to be registered is the lower of the rent under s70 and the capped rent.

Discussion and Valuation

13. In the first instance, it is necessary to determine what rent the landlord could reasonably be expected to obtain for the property let on the open market, disregarding Tenant's improvements (if any) if it were let today in the condition that is considered usual for an open market letting. Details of the comparables provided were helpful only to a limited extent in that they had two bedrooms and were in period properties. Since the Landlord did not contest the Tenant's statement about disrepair the Tribunal accepted it was necessary to make some deductions in this respect. The Tribunal relied on its knowledge of properties in the Bayswater area and considered that this supports a market rent for the property of £490 per week if let on normal terms in the open market in the condition the market would expect. The Tribunal then adjusted for the state of repair and the terms of the tenancy by making a deduction of 25% for the repair and another 5% for the terms and conditions of the tenancy (totalling 30%)
14. 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.

Market rent		£490.00 per week	
Less state of repair) 30%	£147	
Terms and conditions)		_____
			£343.00
 Less scarcity 20%		 £ 68.60	

			£274.40 say £250 per week.

Decision

15. The section 70 fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because it is below the maximum Fair Rent of £306.00 per week .

Accordingly the sum of £250 .00 per week will be registered as the fair rent with effect from being the date of the Tribunal's decision.

Tribunal Judge Shepherd

28th February 2020

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.