



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

**Case Reference** : LON/00AL/F77/2020/0011

**Type of Determination** : P (Paper) Remote.  
2FF, 1 Vanbrugh Park Road, London SE3 7NH.

**Property** :

**Applicant** : Mr. D. T. Bowyer

**Representative** : In person.

**Respondent** : Mr. A.J.G. Polhill

**Representative** : The Page Estate

**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

---

DECISION

---

### **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 6 31 July 2019 the landlord made an application to register the rent of the property at £994.50 per month. No services are provided under the tenancy. The current fair rent passing at that time was £728.50 per month, effective from 26 June 2014 following a previous tribunal determination.
2. On 18 November 2019, the Rent Officer registered the rent at £855.00 per month with effect from 18 November 2019.
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, and the tenant produced a statement of case and some colour photographs of the property. No representations were made by the landlord.

### **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. However, the rent officer had had the benefit of an inspection, and their notes were also before the tribunal.
6. The property is a second floor flat comprising three rooms, kitchen, and bathroom w.c. It has neither double glazing or central heating and according to the rent officer's inspection notes is in a poor condition.

### **The tenant's submission:**

7. The tenant says that the property is in poor condition having not been repaired or maintained by the landlord. He says that the carpets are threadbare having been installed 35 years previously and the majority of the furniture, originally provided by the landlord, has had to be replaced at his expense, and the landlord's agents were unresponsive to requests for aids and adaptations.
8. He went on to say that the property had not been modernised, had little or no insulation to the roof space or between flats with the consequence that he suffered from noise nuisance from the flat below. The tenant also produced photographs to show cracked and broken tiles to the kitchen and fireplace.
9. Finally, the tenant said that the landlord was in the process of carrying out major repairs to the external fabric of the building, and possibly converting the basement into a self-contained flat. This work had caused disruption, dust, and noise nuisance throughout the working week. He requested that any rent increase be deferred until the works had been completed.

### **The landlord's submission:**

10. The landlord did not provide any representations or comparable evidence of rents in the area.

### **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 **£1,300.00** per month.

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 adjusts the market rent by 10%, to reflect the different terms of the tenancy, and a further 20% 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 **£936.00** per month.
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 **£748.80** per month.
17. The tribunal therefore determines that the uncapped Fair Rent is **£748.80** per month exclusive of council tax and water rates.
18. This would be the rent that, in my opinion would be payable by the tenant, if the capping mechanism produced a higher rent.
19. The capping mechanism produced, a higher figure of **£870.50** per month. 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 rent at **£748.80** per month.

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