



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

Case Reference : **LON/00AN/F77/2020/0144
P:PAPERREMOTE**

Property : **14 Cromwell Avenue hammersmith London
W6 9LA**

Applicant : **Yolande McCourt**

Respondent : **Thomas Pocklington Trust**

Date of Application : **2 November 2020**

Type of Application : **Determination of the registered rent under
Section 70 Rent Act 1977**

Tribunal : **Mrs E Flint DMS FRICS**

**Date and venue of
meeting** : **30 March 2021
Remote hearing on the papers**

DECISION

The registered rent with effect from 1 March 2021 is £1,130 per month.

This has been a hearing on the papers which has been consented to by the parties. The form of remote hearing was P:PAPERREMOTE, a paper determination which is not provisional. A face to face hearing was not held because it was not practicable and all the issues could be determined on the papers. The documents that I was referred to are in a bundle, the contents of which I have recorded.

Background

1. On 28 July 2020 the landlord applied to the rent officer for registration of a fair rent of £195 per week for the above property.
2. The rent payable at the date of the application was £168 per week inclusive of £3.59 per month for services which had been determined by the tribunal on 26 October 2018 to take effect from the same date.
3. On 24 September 2020, the rent officer registered a fair rent of £182.50 per week including £5.03 per week services with effect from 26 October 2020.
4. By a letter dated 2 November 2020 the tenant objected to the rent determined by the Rent Officer and requested that the matter be referred to the Tribunal.
5. Directions were issued on 2 February 2021. Owing to the Covid 19 restrictions the parties were asked if they would consent to the application being dealt with on the papers and without the tribunal making an inspection. Neither party objected.

The Evidence

6. The tenant stated that the flat was severely affected by the demolition work being undertaken nearby in connection with a large redevelopment site which included the former town hall.
7. The landlord did not send any representations to the tribunal.

The property

8. The flat is on the second floor of a purpose built terraced block of flats. The accommodation comprises three rooms, kitchen and bathroom/wc. The flat is unmodernised and let without the benefit of white goods, floor and window coverings.

The law

9. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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.
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 emphasised 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).

Valuation

11. In the first instance the Tribunal determined what rent the landlord could reasonably be expected 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. As neither party supplied any rental evidence of comparable properties the Tribunal had regard to its own general knowledge of market rent levels in the area of Hammersmith. Having done so, it concluded that the likely market rent for the flat would be £320 per week.
12. However, it was first necessary to adjust the hypothetical rent of £320 per week to allow for the differences between the terms and condition considered usual for such a letting and the condition of the actual property at the date of the inspection, ignoring tenant's improvements, (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Tribunal noted that flats available on the open market were modernised with central heating, white goods, floor and window coverings. The Tribunal considered that the lack of floor and window coverings and white goods together with the tenant's repairing and decorating liability required a deduction of £100 per week and made a further deduction of £10 per week to reflect the disturbance from the major redevelopment scheme being undertaken nearby.
13. This leaves an adjusted market rent for the subject property of £210 per week. The Tribunal was of the opinion that there was substantial scarcity in the locality of Greater London for similar properties and determined that a deduction of approximately 20% from the market rent to reflect this element would be appropriate. The Tribunal's uncapped fair rent is £168 per week.

Decision

14. The fair rent determined by the Committee, for the purposes of section 70, was accordingly £168 per week inclusive of £5.03 services.

15. The rent assessed by the Tribunal is below the capped rent calculated in accordance with the Rent Acts (Maximum Fair Rent) Order (Details are provided on the back of the decision form).
16. Accordingly, the sum of £168 per week will be registered as the fair rent with effect from 30 March 2021 being the date of the Tribunal's decision

Chairman: Evelyn Flint

Dated: 30 March 2021

