



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

**Case reference** : **LON/00AU/F77/2021/0268**

**HMCTS code  
(paper, video,  
audio)** : **P: PAPERREMOTE**

**Property** : **Flat A 125 Huddleston Road, London,  
N7 0EH.**

**Applicant** : **Mr. Patrick Walsh**

**Respondent** : **Clarion Housing Association**

**Type of application** : **Referral of a registration of Fair Rent  
under the Rent Act 1977.**

**Tribunal** : **Mr Charles Norman FRICS  
Valuer Chairman**

**Date of Decision** : **17 November 2021**

**Date of Reasons** : **18 February 2022**

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**REASONS**

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**Covid-19 pandemic: description of Determination**

This has been a remote determination on the papers which has been consented to by the parties. The form of remote determination was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and no-one requested the same. The documents to which the Tribunal were referred comprised approximately 40 pages, the contents of which the Tribunal has noted.

## **Background**

1. On 24 March 2021, the landlord sent an RR1 application for re-registration of a fair rent to the Valuation Office Agency. The landlord sought a rent of £5,964.92 per annum. No service charges are payable under the tenancy. The previous rent was determined by the Tribunal on 29 January 2019 at £97.20 per week.
2. On 2 August 2021, the Rent Officer registered a Fair Rent of £109.50 per week, with effect from the same date.
3. By an e-mailed letter dated 3 September 2021, the tenant objected to that rent on the grounds that the landlord company should not enjoy an increase of 12.5% over the rent determined by the First Tier Property Tribunal of 29th January 2019 because no improvements have been made (by the landlord) in the intervening period nor any attempt made to put right the serious subsidence and damage arising to the structure and fabric of the house. The tenant also asserted that the landlord company had refused unreasonably to comply with the terms of original tenancy agreement in the area of drainpipes and guttering which, inter-alia, remained in state of disrepair and through which the dilapidations were exacerbated. He reiterated that it was now 17 years since cyclical maintenance was carried out notwithstanding the tenancy agreement that provided for a five yearly repair and decoration programme. The subsidence was first reported to the landlord company in 2009 and remained unattended.
4. On 21 September 2021, the Tribunal issued directions to the parties requiring them to produce any evidence on which they wished to rely in support of their respective cases. The matter was set down for a determination on the papers unless either party requested a hearing which neither did. The tenant made submissions which reflected those referred to above and also supported these with included colour photographs. The tenant did not supply evidence of market rents on which he wished to rely. The landlord did not respond to the appeal.
5. Neither party requested an oral hearing, and the Tribunal determined the matter, without an inspection, (owing to the Covid restrictions), on 17 November 2021 at £100 per week. Subsequently, the tenant requested Reasons.

## **The Law**

6. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property. Section 70 is set out in the Appendix below.
7. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Tribunal* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Tribunal* [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

8. As an inspection was not possible, the Tribunal has used Google Street view and also accepts the findings relating to condition as set out in the Reasons issued by the Tribunal in 2019. The Tribunal finds that the subject property is a one bedroom ground floor converted flat in a mid-terraced Victorian house in Tufnell Park.
9. The 2019 Tribunal stated:

“During our inspection we found the following matters that we consider affect rental value: -

  - The shoring up of the front wall of the house;
  - Cracks to the main front room extending from the left-hand side (as viewed from outside) across the bay window and down the right-hand side of the window;
  - Poor decorative condition externally;
  - Rear bedroom window unopenable due to subsidence issues;
  - Propping of the rear window and wall, with the tenant’s own wooden struts in place to support the window frame;”
10. This Tribunal must firstly determine the market rent for a property of this size, in this location and in its current condition. Using its own general knowledge of the Greater London property market, the Tribunal considers that the market rent for a property of this size and in this location, in good condition, with the usual white goods, carpets and decorated to a good condition would be £1,350.00 per calendar month.
11. However, the property is not in the condition that would be necessary for the landlord to obtain such a rental. All white goods, carpets and curtains are the property of the tenant, and the property is generally tired and would require improvements to meet modern market requirements. In addition, the Tribunal considers that the subsidence would deter many potential tenants from leasing the property.
12. The Tribunal therefore made the following deductions from the market rent of £1,350.00 to reflect those differences:
13. Market rent: £1,350.00.

- Less 5% for different tenancy terms:
- Less 5% for lack of white goods, carpets and curtains;
- Less 50% for disrepair:

This aggregated to 60% or £810 per calendar month, leaving a net rent of £540 per calendar month.

14. The Tribunal found that there was substantial scarcity in the locality of Greater London having taken Judicial Notice of long housing association and local authority waiting lists in Greater London. It therefore made a deduction of 20% (£108 per calendar month) from the adjusted market rent to reflect this element. This left an adjusted rent of £432.00 per calendar month, or £99.70 per week which the Tribunal rounded to £100 per week.
15. The Tribunal is then required to apply the Rent Acts (Maximum Fair Rent) Order 1999. The calculation was included on the decision sheet and produced a maximum fair rent of £112.50 per week.
16. The Tribunal must register the lower of the adjusted market rent or Maximum Fair Rent as the fair rent for the property. In this instance the adjusted market rent produces the lower figure, and the Tribunal therefore registered the rent of £100.00 per week for this property, effect from 17 November 2021, being the date of the Tribunal's decision.

**Name:** Mr Charles Norman FRICS    **Date:** 18 February 2022

#### **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.

**Appendix**

**Rent Act 1977**

Section 70 Determination of fair rent.

(1) In determining, for the purposes of this Part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to—

(a) the age, character, locality and state of repair of the dwelling-house, . . . F1

(b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture [F2, and]

[F2(c) any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.]

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;

(b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his;

(c)(d). . . . . F3

(e) if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

F4[(3A) In any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, regard shall also be had to the amount of council tax which, as at the date on which the application to the rent officer was made, was set by the billing authority—

(a)for the financial year in which that application was made, and

(b)for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B)In subsection (3A) above—

(a)“hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,

(b)“billing authority” has the same meaning as in that Part of that Act, and

(c)“category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.]

(4)In this section “improvement” includes the replacement of any fixture or fitting.

[F5(4A)In this section “premium” has the same meaning as in Part IX of this Act, and “sum in the nature of a premium” means—

(a)any such loan as is mentioned in section 119 or 120 of this Act,

(b)any such excess over the reasonable price of furniture as is mentioned in section 123 of this Act, and

(c)any such advance payment of rent as is mentioned in section 126 of this Act.]

(5). . . . .