



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

Case Reference : **LON/00AW/F77/2022/0009**

HMCTS code : **P: PAPERREMOTE**

Property : **2 Oakley Gardens, London, SW3 5QG**

Landlord : **Cadogan Estates Limited**

Representative : **Cluttons LLP**

Tenant : **Mr M F Neilson**

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 : **22 March 2022**

Date of Reasons : **22 March 2022**

REASONS

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers. The form of remote hearing was P:PAPERREMOTE. The Directions dated 30 April 2021 set out that the tribunal was not able to hold face to face hearings or carry out internal inspections. The decision made is described at the end of these reasons.

Background

1. On 6 September 2021, the Landlord applied for registration of a fair rent of £38,480 per annum.
2. The Rent Officer registered a rent of £7926.50 per quarter. The rent was registered on 1 November 2021 and is effective from the same date. The rent was the capped rent which was below the s70 rent of rent of £9050.00 per quarter.
3. Accommodation is a Terraced house on basement to second floors with central heating and comprising
Basement: 2 rooms, kitchen, patio, utility room
Ground: 2 rooms, WC
First: 2 rooms, 2 bathroom/WC
Second: 2 rooms, bathroom/WC, roof terrace.
4. The previous registered rent was £6781.00 per quarter and was registered on 30 November 2017 and effective from the same date. The rent was the capped rent which was below the s70 rent of £9700 per quarter.
5. The Tenant objected to the registered rent by letter dated 13 November 2021 and the matter was referred to the tribunal.
6. On 19 January 2022, the tribunal issued Directions for proceeding by written representations.

Evidence

The Landlord's Case

7. The Landlord submitted evidence of the most recent lettings in Oakley Gardens which was not disputed. No works have been carried out at 5 Oakley Gardens since the 2020 letting.

Property	No. of beds	Furnished / unfurnished	Date	Rent (pw)	Rent (pa)
5 Oakley Gardens	4	Unfurnished	January 2022	£2,550	£132,600
51 Oakley Gardens	3	Unfurnished	April 2021	£1,995	£103,740
32 Oakley Gardens	3	Unfurnished	January 2021	£1,895	£98,540
45 Oakley Gardens	3	Unfurnished	November 2020	£1,900	£98,800
5 Oakley Gardens	3	Unfurnished	January 2020	£1,950	£101,400
53 Oakley Gardens	4	Unfurnished	January 2020	£2,050	£106,600
17 Oakley Gardens	4	Unfurnished	November 2019	£2,100	£109,200

The Tenant's case

- No rental evidence was submitted by the Tenant. The objection letter made reference to the state of the street but no details have been provided.

Inspection

- In accordance with the directions the tribunal did not inspect the property. The tribunal took into account photographs on Street View which show limited detail.

The Law

- When determining a fair rent in accordance with section 70 of the Rent Act 1977, the tribunal has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property.
- 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.
- 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%. There are no such improvements in this case

Discussion and Valuation

13. In addition to the evidence provided by the Landlord the tribunal has relied on its knowledge and experience.
14. 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 the rental evidence and places weight on the letting of 5 Oakley Gardens as the most recent 4 bedroom house letting in the street. It has also applied its knowledge and experience and considers that the rent for the subject property, in this location, and in the condition and with the amenities which the market would expect, would be £2500.00 per week (£32,500 per quarter). The tribunal has adjusted for the condition of the property, lack of white goods and for the repairing terms of the tenancy as compared with a standard assured shorthold tenancy and makes a deduction of 60% for these factors.
15. 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.

S70 Rent			
		per w	PQ
Market rent		£ 2,500.00	£ 32,500.00
less condition & terms	60%	<u>-£ 1,500.00</u>	-£ 19,500.00
adjusted rent		£ 1,000.00	£ 13,000.00
less scarcity off adj rent	20%	<u>-£ 200.00</u>	-£ 2,600.00
Fair rent		£ 800.00	£ 10,400.00

Capped rent

16. 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.
17. The previous registered rent was £6781.00 per quarter. The retail prices index figure to be used is the figure published in the month before the decision. The decision was made in March, and the latest figure published was 317.7 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 £8150.23.00 per quarter which is below the s70 rent of £10,400 per quarter.

18. The rent to be registered is the lower of the two figures and is the capped rent of £8150.00 per quarter.

19. The effective date is the date of the decision which is 22 March 2022.

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.