FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00AG/F77/2022/0060 P:PAPERREMOTE**
Property	:	**18 Harvard Court Honeybourne Road London N2NW6 1HJ**
Applicant	:	**Northumberland and Durham Property Trust Limited**
Respondent	:	**Mrs Carla Tattersfield**
Date of Application	:	**19 August 2021**
Type of Application	:	**Determination of the registered rent under Section 70 Rent Act 1977**
Tribunal	:	**Mrs E Flint DMS FRICS**
Date and venue of hearing	:	**5 July 2022 remote hearing on the papers**

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DECISION

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The registered rent with effect from 5 July 2022 is £4480 per quarter.

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 23 June 2021 the landlord applied to the rent officer for registration of a fair rent of £4497.11 inclusive of £222.40 fixed service charge per quarter for the above property.

2. The registered rent at the date of the application was £3900 per quarter which had been determined by the tribunal on 20 September 2019 with effect from the same date.

3. On 5 August 2021, the rent officer registered a fair rent of £3805 per quarter inclusive of £201.54 service charge with effect from 20 September 2021.

4. On 19 August 2020 the landlord objected to the registered rent.

5. The tenant occupies under the terms of a tenancy agreement which commenced on 1 January 1964.

6. Owing to the Covid 19 restrictions the parties were asked if they would consent to the application being dealt with on the papers. Neither party objected. No written representations were received from the tenant, nor were any written representations were received from or on behalf of the landlord.

The Law

7. When determining a fair rent the tribunal, in accordance with section 70 of the Rent Act 1977, must have regard to all the circumstances including the age, location and state of repair of the property. It also must disregard the effect if any of any relevant tenant's improvements and the effect of any disrepair or any other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.

8. 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 to that of a regulated tenancy, and

   That for the purposes of determining the market rent, assured tenancy market rents are usually appropriate comparables; adjusted as

necessary to reflect any relevant differences between the comparables and the subject property.

Valuation

9. 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. The Tribunal relied on its own general knowledge of rental values in West Hampstead and concluded that the likely market rent for the property would be £7800 per quarter.

10. However, it was first necessary to adjust the hypothetical rent of £7800 per quarter 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 valuation date, ignoring any 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 properties available on the open market were modern or modernised, with white goods, floor and window coverings. The Tribunal considered that these differences and the terms and conditions of the tenancy required a deduction of £2200 per quarter.

11. This leaves an adjusted market rent for the subject property of £5600 per quarter. The Tribunal was of the opinion that there was substantial scarcity in London for similar properties and therefore made a deduction of 20% from the adjusted market rent to reflect this element. The Tribunal's uncapped fair rent is £4480 per quarter.

Decision

12. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was accordingly £4480 per quarter which is below the maximum fair rent of £4713 per quarter which can be charged under the Rent Acts (Maximum Fair Rent) Order 1999.

14. Accordingly, the sum of £4480 per quarter will be registered as the fair rent with effect from 5 July 2022 being the date of the Tribunal's decision.

Chairman: Evelyn Flint

Dated: 5 July 2022

<u>ANNEX - RIGHTS OF APPEAL</u>

i. If a party wishes to appeal 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.

ii. 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.

iii. 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.

iv. 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.