



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

**Case Reference** : **LON/00AW/F77/2022/0064**

**Property** : **Flat 1, 6 Sydney Street,  
London Sw3 6PP**

**Applicant** : **Mrs B. Banks (Tenant)**

**Representative** : **None**

**Respondent** : **Maltbys Estates (Landlord)**

**Representative** : **None**

**Type of Application** : **S.70 Rent Act 1977 – Determination  
of a new fair rent**

**Tribunal Member** : **Mr N Martindale FRICS**

**Date and venue of  
Meeting** : **28 June 2022  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **28 June 2022**

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**REASONS FOR DECISION**

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**Background**

- 1 The landlord applied to the Rent Officer for registration of a fair rent. The rent registered as already payable at the time of the application was £1451 pcm including a service charge of £64.30 pcm., capped, with effect from 18 February 2020.
- 2 In response the Rent Officer registered a fair rent of £1651 pcm with effect from 24 February 2022, including a service charge of £84.63 pcm. Subsequently a party (it is unclear from the correspondence available the Tribunal) objected and sought a re-hearing of the application, by the Tribunal.

## **Inspection**

- 3 The Tribunal did not inspect the Property owing to the restrictions imposed and arising from Covid 19. The Property appears from Google Streetview (@December 2021), to be part of a substantial mid Victorian terrace formerly composed of houses but many have since been converted to flats, as at the Property. The Block has 5 levels including basement.
- 4 The Property has 3 rooms, kitchen, bathroom & WC. There is full gas fired central heating. It appears to have been converted/ refurbished some time in 1980's. The roof appears to be flat but is most likely of butterfly design with hidden internal gutters taking water from two pitched roof surfaces facing inwards above the top floor. It is not possible to see beyond the verge/ eaves from ground level photography. The windows appear to be double glazed units in plastic frames. The front elevation of the Block within which the Property appears in fair condition. full gas central heating and glazing was provided by the landlord. The block is located in North Chelsea north of the River Thames.
- 5 The property comprised 3 rooms, kitchen, bathroom, WC. The Tribunal made the assumption common in older established tenancies such as this one, that there were no carpets or curtains, or white goods included in the letting by the landlord and kitchen and bathroom functional only. The tenant did not report to the Tribunal any improvements which they had carried out or any items of disrepair which the landlord had not.

## **Evidence**

- 6 Directions, for the progression of the case were issued. The Tribunal received brief representations. Neither party requested a hearing. The case was determined only on the papers.

## **Law**

- 7 When determining a fair rent the Committee, 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.
- 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 emphasized
  - (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).

## **Decision**

9. The condition of a property is inferior of that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an unmodernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
10. On the evidence of the tribunal's general knowledge of market rent levels in this location, the subject property if modernized and in good order would let on normal Assured Shorthold Tenancy (AST) terms, for £2,600 pcm.
11. Tribunal makes allowance for the absence of carpet and curtains, for the lack of white goods, basic kitchen and bathroom. These adjustments total a £400 pcm deduction, producing a market rent of £2200 pcm, prior to considering scarcity.
12. The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was a substantial scarcity in the locality of Greater London and therefore makes a further deduction of 20% from the adjusted market rent to reflect this element. This deduction results in an uncapped rent of £1800 pcm.
13. The Tribunal is also required to calculate the Maximum Fair Rent Cap (MFRCap) which serves to limit the extent of increase in a fair rent on review. The cap is determined by a formula under statutory regulation, which whilst allowing for an element of inflation may serve to prevent excessive increases. The cap as the date of the tribunal's determination produces a figure of £1743.63 pcm. This figure is a combination of the previously registered rent being subject to the change in RPI between registration dates rounded up to the nearest 50p. There is a service charge element. In this case the cap did apply according to the MFRCap regulations.
14. As the cap applies, the new rent calculated above is capped. The fair rent is £1743.63 pcm including a service charge of £84.63 pcm. This is a slight correction from the new rent set out in the original Form. It takes effect from and including the date of determination, 28 June 2022. This is a correction

to the earlier decision and MFR calculations. The revised calculation and Form is attached.

**Chairman N Martindale**

**Dated 15 August 2022**