



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

Case Reference : **JM/LON/00AN/F77/2022/0105
P:PAPERREMOTE**

Property : **76 Ormiston Grove London W12 0js**

Applicant : **Mr R Colwell**

Respondent : **Northumberland and Durham
Property Trust Limited**

Date of Application : **27 June 2022**

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

Tribunal : **Mrs E Flint DMS FRICS
Mr A Ring**

**Date and venue of
hearing** : **23 August 2022
remote hearing on the papers**

DECISION

The registered rent with effect from 23 August 2022 is £200 per week.

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 the tribunal were referred to are in a bundle, the contents of which have been recorded.

Background

1. On 3 May 2022 the landlord applied to the rent officer for registration of a fair rent of £199.52 per week for the above property.
2. The registered rent at the date of the application was £172 per week which had been registered by the rent officer on 15 July 2020 with effect from the same date.
3. On 16 June 2022, the rent officer registered a fair rent of £204.50 per month with effect from 15 July 2022.
4. On 27 June 2022 the tenant objected to the registered rent.
5. 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. Written representations were received from the tenant no representations were received from or on behalf of the landlord.

The Evidence

6. Ormiston Grove is a tree lined residential street with on street permit parking situated in the Shepherd's Bush area close to all local facilities. The property comprises a ground floor flat in a two storey terraced building. The accommodation comprises four rooms, kitchen and bathroom/wc.
7. Mr Colwell has been in occupation since June 1972. He has installed double glazing and central heating and provided the carpets curtains and white goods. Mr Colwell further stated that the landlord had not undertaken any expenditure on the property.
8. He was of the opinion that the increase of £32 per week was excessive.

The Law

9. 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.
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 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

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. The Tribunal relied on its own general knowledge of rental values in Shepherd's Bush and concluded that the likely market rent for the property would be £500 per week.
12. However, it was first necessary to adjust the hypothetical rent of £500 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 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, the lack of modernisation together with the terms and conditions of the tenancy required a deduction of £250 per week.
13. This leaves an adjusted market rent for the subject property of £250 per week. 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 £200 per week.

Decision

14. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was accordingly £200 per week this is below the maximum fair rent of £207.50 per week which can be charged under the Rent Acts (Maximum Fair Rent) Order 1999.
14. Accordingly, the sum of £200 per week will be registered as the fair rent with effect from 23 August 2022 being the date of the Tribunal's decision.

Chairman: Evelyn Flint

ANNEX - RIGHTS OF APPEAL

- 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.

