



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

Case reference : **KA/LON/00BG/F77/2022/0083**

HMCTS code : **PAPERREMOTE**

Property : **17 Surma Close, London, E1 5DD**

Applicant/Tenant : **Ms Padma Rani**

Representative : **N/A**

Respondent/Landlord : **Newlon Housing Trust**

Representative : **N/A**

Type of application : **Section 70, Rent Act 1977**

Tribunal member(s) : **Judge Ian Mohabir
Mrs Alison Flynn MA MRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **24 August 2022**

DECISION

This has been a hearing on the papers, which has been consented to by the parties. A face-to-face hearing was not held because no one requested it and all issues could be determined on paper.

The Application

Background

1. On 28 February 2022, the landlord applied for the registration of a fair rent. The rent payable at the time was £189.65 per week, as stated on the Application for Registration of Fair Rent but stated by Ms Rani to be £170.32. It had been registered at £207.50 on 4th August 2014. The landlord applied to register a rent of £196.63 per week inclusive of services of £19.33 per week. On 11th April 2022, the Rent Officer registered a fair rent of £269.00 per week, inclusive of service charges of £13.53 per week, with effect from the same date.

2. On 27th April, the tenant appealed against the registration of the rent.

3. Neither party chose to provide written representation, as such, but the tenant provided details of the reasons for her objection in her letter of objection and the landlord provided statements of account for the service charges.

4. Directions were issued on 18th May 2022. Attached to these were an information sheet and reply form requesting details of the property, including a suggestion that photos could be submitted. The tenant completed a reply form. No photos were submitted by either party.

The Objections

5. The tenant stated that the increase was too large and felt the landlord's suggestion to be fair. She also stated that no work had been done to the property by the landlord and the acoustics of the house were poor because of cheap materials. In her reply form, the tenant gave sizes of the rooms and indicated that there was dampness in several rooms and that the house is cold and draughty. She objected to being charged for communal services as the property as the property is a house. She believed the rent registered was based on similar properties but which had had substantial work done to them. The property was unfurnished. The Landlord did not refute the state of repair.

The Inspection

6. The tribunal did not inspect the property but from the rent register understands it to be a five-bedroom house on ground, first and second floors

with full central heating and a private garden. The accommodation is as follows:

Ground floor 1 Room, a kitchen-diner, 1 wc and 1 utility room

First floor 3 rooms and a bathroom/wc

Second floor 2 rooms, a shower room and 1 wc.

The Tribunal also has access to Street View. The property is in a cul de sac. It is close to Whitechapel Tube Station and other amenities. The Rent Register also showed the tenancy to have begun on 27th June 1994 and to be subject to Section 11 of the Landlord and Tenant Act 1985.

The Law

7. When determining a Fair Rent, the Tribunal, 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 Tribunal* (1995) 28HLR 107 and *Curtis v London Rent Assessment Tribunal* (1999) QB 92 the Court of Appeal emphasised

a) That ordinarily the fair rent is the market rent for the property discounted for "scarcity" (i.e. that element, if any, of the market rent which 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 have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

The Valuation

9. Thus, 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 (that is the date of the determination) in the condition that is considered usual for such an open market letting. It did this by having regard to the Tribunal's own general knowledge of market rent levels in the area of Bethnal Green and Whitechapel. Having done so, it considered that a likely market rent was £725 per week.

10. The Tribunal had to make assumptions as to the state of repair and modernisation based on what the tenant had written. The Tribunal also took into account the terms and condition of the tenancy agreement.

11. Therefore, it is first necessary to adjust the rent to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as assumed by the Tribunal. An overall reduction of 20% was made thus bringing the rent to £580 inclusive of services. The Tribunal accepted that service charges are payable as the property is on an estate even though it is a detached house.

12. The Tribunal considered that that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (or £116 per week) from the market rent to reflect this element, leaving a rent of £464 per week. AS this figure is above the Maximum Fair Rent of £282 per week, the Maximum Fair Rent Order applies.

The Decision

The rent determined by the Tribunal is £282.00 per week inclusive of services.