



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

Case Reference : **LON/00AK/F77/2022/0102**

Property : **40A Hertford Road Enfield EN3 5AN**

Applicant : **Mr William Croucher**

Respondent : **Pevensey Estates Limited**

Representative : **Bridgewood Management Limited**

Date of Application : **16 June 2022**

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

Tribunal : **Mrs E Flint DMS FRICS
Mr O N Miller BSc**

Date and venue of hearing : **30 August 2022
10 Alfred Place London WC1E 1LR**

DECISION

The registered rent with effect from 30 August 2022 is £4800 per year, payable quarterly.

Background

1. On 4 April 2022 the landlord applied to the rent officer for registration of a fair rent of £2314 per quarter for the above property.
2. The registered rent at the date of the application was £1116 per quarter which had been registered by the rent officer on 8 May 2015 with effect from the same date.
3. On 30 May 2022, the rent officer registered a fair rent of £1452.50 per quarter with effect from the same date.
4. On 16 June 2022 the tenant objected to the registered rent.
5. The tenant occupies under the terms of a lease for 22 years from 21 October 1958. The terms of the lease require the tenant to pay the insurance premium to the landlord, paint the exterior every three years and the interior every seven years, well and substantially repair .. maintain and keep the demised premises in good and substantial repair and condition and make a rateable contribution towards the cost of repairing and maintaining all common parts (including pathways, drains etc).
6. Prior to the hearing written representations were received from the tenant. The landlord company had purchased the property at auction on 30 March 2022 consequently it was able to provide only limited information: it was assumed that as the rent officer had inspected in the past that the information used to assess the rent was correct.

The Hearing

7. Mr Croucher appeared in person and referred to his written representations, the landlord was not present nor represented. Mr Croucher said that there is a lot of subsidence in the area, the neighbouring property has been underpinned. The garden path leading to his flat was cracked and the drain to the rear had partially collapsed. He had had a concrete sub base installed below the rear wall of the back addition to prevent further damage. He had provided the central heating system, double glazing, fitted kitchen, replaced the bathroom suite, had most of the ceilings replastered, and recently installed a new consumer unit and rewired throughout in accordance with current regulations in respect of tenanted properties. As a result of the rewiring, he had to retile the walls in the kitchen.
8. He was of the opinion that the rent ought not to be increased due to the level of expenditure necessary to maintain the property.
9. He was of the opinion that current rents within the area were between £1100 and £1400 per month for modernised flats. He did not have any detailed information of flats available to rent in the area.

The Inspection

10. 40A Hertford Road is one of four flats each with its own external entrance door within a two storey purpose built block constructed in the 1930's. There is a service road fronting the property which is opposite the local college. Hertford Road is a bus route, Southbury railway station is approximately half a mile from the property and shopping and entertainment within Enfield town centre approximately one mile distant.
11. The accommodation which is on the first floor comprises a living room, one double and one single bedroom currently used as a dining room, kitchen and bathroom/wc, the tenant has sole use of a section of the rear garden. The flat is modernised due to the improvements carried out by the tenant. It is centrally heated via a dated gas fired boiler, a replacement is in situ but not yet connected, the replacement windows are timber framed with inset double glazed units. The kitchen originally had a sink unit and pantry cupboard with window to the side, the cupboard has been removed and the kitchen fitted with base and wall cupboards providing sufficient worktop space in line with modern requirements. The bathroom/wc has a modern suite, electric shower over the bath and fully tiled walls. All carpets, curtains and white goods are the tenants.
12. Externally the property is in good condition. However the front garden path is cracked and subsiding, the manhole cover is above the level of the concrete. The path to the side of the building is also cracked. There is modern paving around the back addition which the tenant has laid following the installation of the concrete sub base.
13. The asphalt covered pedestrian walkway abutting the boundary of the property is cracked; indicating some movement. The neighbouring property has a number of cracks in the back addition.

The Law

14. 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.
15. 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

16. 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 and on the terms that is considered usual for such an open market letting. The Tribunal relied on the evidence of the tenant and its own general knowledge of rental values in Enfield and concluded that the likely market rent for the property would be £1250 per month.
17. However, it was first necessary to adjust the hypothetical rent of £1250 per month 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 determined that a deduction of £500 per month should be made to reflect the fact that the flat is wholly unmodernised, without central heating, double glazing, floor and window coverings or white goods. The Tribunal further determined that a deduction of £250 per month should be made to reflect the full repairing and insuring obligations of the tenant, particularly as there is evidence of external subsidence within the garden and neighbouring property.
18. This leaves an adjusted market rent for the subject property of £500 per month. 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 £400 per month, or £4800 per year payable by four quarterly instalments of £1200.

Decision

19. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was accordingly £4800 per year which is below the maximum fair rent of £6095 per year under the Rent Acts (Maximum Fair Rent) Order 1999.
14. Accordingly, the sum of £4800 per year will be registered as the fair rent with effect from 30 August 2022 being the date of the Tribunal's decision.

Chairman: Evelyn Flint

Dated: 31 August 2022

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.

