



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

Case Reference : **LON/00BJ/F77/2022/0133**

Property : **22 Oakmead Road, London, SW12
9SL**

Tenant : **Miss Marcia McLean**

Landlord : **Wandle Housing Association Limited**

Date of Objection : **25 July 2022**

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

Tribunal : **Ms H C Bowers**

Date of Reasons : **26 September 2022**

DECISION

The sum of £188.50 per week will be registered as the fair rent with effect from 26 September 2022, being the date the Tribunal made the Decision.

SUMMARY REASONS

Background

1. On 6 May 2022, the Landlord applied to the Rent Officer for registration of a fair rent of £167.50 per week for the above property.
2. The rent was previously registered on 4 May 2017 at £143.50 per week with effect from the same date. On 30 June 2022 the Rent Officer registered a fair rent of £184.00 per week with effect from that date. The uncapped rent was noted to be £355.00 per week.
3. By an email dated 25 July 2022 the Tenant objected to the rent determined by the Rent Officer and the matter was referred to the First-tier Tribunal.
4. The Tribunal issued Directions on 4 August 2022 setting out the timetable and the steps the parties were required to take in preparation for the determination of this case.

The Law

5. When determining a fair rent the Tribunal, in accordance with section 70 of the Rent Act 1977 (the Act), 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.
6. In *SpathHolme 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
 - (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).
7. The Rent Acts (Maximum Fair Rent) Order 1999 (the 1999 Order) provides the framework that places a ceiling on the maximum rent that can be registered. The calculation is based upon a formula that applies an increase in the monthly United Kingdom Index of Retail Prices to the previously registered rent.

Inspection

8. The Tribunal has not carried out an inspection of the property. From the papers considered by the Tribunal, it is noted that this property is a two-bedroom, ground floor flat that comprises three rooms, a kitchen and a bathroom. From the Rent Register it is noted that this is a purpose built flat in a block built circa 1800 to 1918. The flat is stated to have full central heating and there is a garden for the sole use of the flat.

Evidence

9. Neither party requested a hearing. Therefore, this matter was considered on the basis of the written submissions from the parties.

Tenant's Submissions

10. There were no written submissions from the Tenant.

Landlords' Submissions

11. There were no written submissions from the Landlord.

Determination and Valuation

12. The Tribunal initially needs to determine 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. In doing this, the Tribunal will consider the rental value of the property and will not the personal circumstances of the Tenant, as that is not a factor envisaged by the Act.

13. The Tribunal was not provided with any comparable evidence and therefore relied on its own general knowledge and experience of market rents in this area. The Tribunal is of the opinion that the subject flat would achieve a rent in the region of £475.00 per week. However, at this level of rent the flat would be furnished with suitable floor coverings, curtains/window coverings and a range of kitchen appliances. These are items that will have been provided by the current Tenant. In the opinion of the Tribunal a prospective Tenant would reduce their rental bid for a property without carpets, curtains and kitchen appliances and we consider such a reduction would be in the region of 10%.

14. Next aspect to be considered is the issue of scarcity. The Tribunal was not provided with any specific evidence on this issue. However, the issue of scarcity is considered on the basis of the number of properties available to let and also considering the demand for such properties and over a really large area. Neither party provided any specific evidence in respect of scarcity. Therefore, using our knowledge and experience we consider that in the wide geographical area of Greater London there is an imbalance between supply and demand and this impacts upon rental values. Accordingly, we make a deduction for scarcity of approximately 20%. The full valuation is shown below.

£/week

Market Rent		475.00
<i>Less</i>		
Carpets, curtains and white goods provide by Tenant		<u>50.00</u>
		425.00
<i>Less</i>		
Scarcity	approx. 20%	<u>85.00</u>
		340.00

15. The sum determined is £340.00 per week.

Decision

16. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £340.00 per week. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at £188.50 per week. The calculation of the capped rent is shown on the decision form. In this case the lower rent of £188.50 per week is to be registered as the fair rent of this property.

17. The rent determined by the Tribunal is the maximum sum that the Landlord can charge. It is likely that the Landlord may seek a lower sum from the Tenant but that is a matter of the Landlord's own rental policy and not something that the Tribunal can consider.

18. Accordingly, the sum of £188.50 per week will be registered as the fair rent with effect from 26 September 2022 being the date of the Tribunal's decision.

Chairman: Ms H C Bowers Date: 26 September 2022

APPEAL PROVISIONS

These summary reasons are provided to give the parties an indication as to how the Tribunal made its decision. If either party wishes to appeal this decision, they should first make a request for full reasons and the details of how to appeal will be set out in the full reasons.