



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

Case Reference : **JM/LON/00AW/F77/2022/0125**

HMCTS code : **P: PAPERREMOTE**

Property : **2nd Floor Flat, 1 Finborough Road,
London, SW10 9DA**

Landlord : **Grainger Bradley Limited**

Representative : **None**

Tenant : **Ms E Edwards**

Representative : **In Person**

Type of Application : **Determination of a fair rent under
section 70 of the Rent Act 1977**

Tribunal Members : **Mr Anthony Harris LL.M FRICS FCI Arb
Mr O Miller BSc**

Date of Decision : **4 October 2022**

Date of Reasons : **4 October 2022**

REASONS

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers. The form of remote hearing was P:PAPERREMOTE followed by an inspection. The Directions were dated 29 July 2022. The decision made is described at the end of these reasons.

Background

1. On 4 May 2022, the Landlord applied for registration of a fair rent of £310.33 per week including £23.30 per week for services (not variable).
2. The Rent Officer registered a rent of £309.00 per week including £12.50 per week for services (not variable). The rent was registered on 29 June 2022 and is effective from 27 July 2022. The rent was the capped rent which was below the s70 rent of rent of £340 per week.
3. Accommodation is a self-contained converted flat without central heating with accommodation consisting of two rooms, kitchen, bathroom/WC.
4. The previous registered rent was £260 per week and was registered on 27 July 2020 and effective from the same date. The rent was the s70 rent.
5. The Tenant objected to the registered rent by letter dated 28 July 2022 and the matter was referred to the tribunal.
6. On 29 July 2022, the tribunal issued Directions for proceeding by written representations.

Evidence

The Landlord's Case

7. No evidence was submitted by the Landlord

The Tenant's case

8. The tenant provided written representations dated 29 August 2022 including details of rental comparables..
9. The Tenant provided details of various items of disrepair. In the living room uneven windows, sloping floors, cracks in walls and ceilings with part of the ceiling cornicing having become detached and been glued back, textured lumpy paint on the ceilings which is impossible to remove, some dampness below the window and single glazing.
10. In the kitchen which is on modernised there were cracks in walls and ceilings and no mixer taps to the sink.

11. In the bedroom there are cracks in the ceiling and a sloping floor.
12. The bathroom is a modernised has cracks in the walls and ceilings and no mixer taps. At the tribunal's inspection dampness and watermarking was noted to the ceiling from a leak in the flat above.
13. Windows and external decoration are in poor repair.
14. The flat has not been refurbished by the Landlord and has no central heating. There are no carpets, curtains or white goods.
15. The flat is on a noisy road with no double glazing.
16. The tenant provided details of four modernised one-bedroom flats in the close vicinity of the subject property.
17. A flat in new Kings Road at W6 available to let from 17 September 2022 at a rent of £334.62 per week.
18. A one-bedroom flat in Oakley Street SW3 available from 26 July 2022 at a rent of £325 per week.
19. A one-bedroom flat in Cheyne walk SW 10 where a letting has been agreed at a rent of £346.15 per week.
20. A one-bedroom flat in Lots Road SW 10 where letting was agreed on 8 August 2022 at a quoting rent of £346.15 per week (£1500 per month).

Inspection

21. The tribunal inspected the property and found that the tenant's complaints were justified. The flat is basically unmodernised, the kitchen and bathroom fittings are dated. Carpets curtains and white goods are supplied by the tenant. Common parts were reasonably presentable although paint is peeling to the front door. The front entrance steps can be slippery due to pigeon droppings.

The Law

22. When determining a fair rent in accordance with section 70 of the Rent Act 1977, the tribunal has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property.
23. 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 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 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.

24. The rent has been previously registered, and the Rent Acts (Maximum Fair Rent) Order 1999 therefore applies unless there are significant improvements made by the Landlord which increase the rent which would be registered by more than 15%. There are no such improvements in this case

Discussion and Valuation

25. The tribunal accept the rental evidence provided by the tenant and the tribunal has also relied on its knowledge and experience.
26. The tribunal firstly has to consider the rent in accordance with section 70 of the Rent Act as a market rent less scarcity. The tribunal has applied its knowledge and experience and considers that the rent for the subject property, in this location, and in the condition and with the amenities which the market would expect, would be £380 per week. The tribunal has adjusted for the condition of the property, lack of white goods and for the different terms of the tenancy as compared with a standard assured shorthold tenancy and makes a deduction of 20% for these factors.
27. The Tribunal found that there was substantial scarcity of letting property in the locality of Greater London and using its knowledge and experience made a deduction of 20% from the adjusted market rent. The calculation of the s70 rent is set out below.

S70 Rent		
		per week
Market rent		£ 380.00
less condition & terms	20%	-£ 76.00
adjusted rent		£ 304.00
less scarcity off adj rent	20%	-£ 60.80
Fair rent		£ 243.20
Rounded		£ 245.00

Capped rent

28. In accordance with the Rent Acts (Maximum Fair Rent) Order 1999 the maximum rent is the previous registered rent increased in accordance with the Order which provides for the previous rent to be increased by the percentage increase in the retail prices index plus 5% if the application is a second or later application since 1 February 1999.
29. The previous registered rent was £260.00 per week. The retail prices index figure to be used is the figure published in the month before the decision. The decision was made in October, and the latest figure published was £345.20 and which is the upper figure to be used. The index at the date of the last registration was 294.2. Applying the formula produces a maximum fair rent of £318.50 per week which is above the s70 rent of £245.00 per week.
30. The rent to be registered is the lower of the two figures and is the s70 rent of £245.00 per week.
31. The effective date is the date of the decision which is 4 October 2022.

**Anthony Harris LLM FRICS FCI Arb
Valuer Chair**

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.
- 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.
- 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.
- 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.