



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

Case Reference : **LON/00BJ/F77/2022/0180
P:PAPERREMOTE**

Property : **Flat B 28 Marmion Road London
SW11 5PA**

Applicant : **Mrs A Can**

Respondent : **Wandle Housing Association**

Date of Application : **23 August 2022**

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

Tribunal : **Mrs E Flint FRICS**

**Date and venue of
the Hearing** : **15 November 2022 remote hearing
on the papers**

DECISION

This has been a remote hearing on the papers which has been consented to by the Applicant and not objected to by the Respondent. A face to face hearing was not held because it was not practicable, no-one requested the same, and all the issues could be determined on the papers. The documents that we were referred to were in a paper bundle, the contents of which I have recorded.

The registered rent with effect from 15 November 2022 is £180 per week.

Background

1. The landlord applied to the rent officer for registration of a fair rent of £174.19 per week for the above property.
2. The registered rent at the date of the application was £132 per week which had been registered by the rent officer on 6 December 2012 with effect from the same date.
3. On 26 July 2022, the rent officer registered a fair rent of £187 per week with effect from the same date.
4. On 23 August 2022 the tenant objected to the registered rent.
5. Written representations were received from the tenant, no written representations were received from or on behalf of the landlord.

The Evidence

6. Mrs Can stated that central heating had been installed in 2019; a new kitchen in 2017 and part double glazing in 2021. Recently a large part of the ceiling in the living room had collapsed; the landlord attended and sealed off the room. The ceiling in the bedroom is sagging and there is cracked plaster in the hallway. One of the landlord's workmen has broken the closing mechanism of the skylight rendering it a security risk. She confirmed that the carpets, curtains and white goods were her own. The tenant supplied a number of photographs to illustrate the condition of the flat.

The Law

7. 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. The Tribunal is unable to take into account the tenant's personal circumstances when assessing the fair rent.
8. 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

9. 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 its own general knowledge of rental values in Battersea and concluded that the likely market rent for the property would be £575 per week.
10. However, it was first necessary to adjust the hypothetical rent of £575 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 determined that the hypothetical rent should be reduced by £200 to reflect the disrepair and a further £150 to reflect the difference in the terms of the tenancy, partial double glazing, the lack of carpets, curtains and white goods which are usually provided on the open market
11. This leaves an adjusted market rent for the subject property of £225 per week. The Tribunal was of the opinion that there was substantial scarcity in Greater 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 £180 per week.

Decision

12. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was accordingly £180 per week. This is below the maximum fair rent of £193 per week calculated under the Rent Acts (Maximum Fair Rent) Order 1999.
14. Accordingly, the sum of £180 per week will be registered as the fair rent with effect from 15 November 2022 being the date of the Tribunal's decision. As the landlord is a Housing Association the registered rent may be more than the amount that the landlord is actually charging or proposing to charge.

Chairman: Evelyn Flint

Dated: 15 November 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.

