



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

Case Reference : **LON/00AN/F77/2022/0211
V:CVPCOURT**

Property : **3RD Floor 19 Sinclair Road London W14
0NS**

Applicant : **Miss Pauline Ware**

Respondent : **BPT (Bradford Property Trust)
Limited**

Date of Application : **1 September 2022**

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

Tribunal : **Mrs E Flint FRICS
Mr A Ring**

**Date and venue of
Hearing** : **16 January 2023 video hearing at
10 Alfred Place London WC1E 7LR**

DECISION

This has been a video hearing which has been consented to by the tenant and not objected to by the landlord. A face to face hearing was not held because it was not practicable, no-one requested the same. The documents that we were referred to were in an electronic bundle the contents of which we have recorded.

The registered rent with effect from 16 January 2023 is £180 per week.

Background

1. On 29 June 2022 the landlord applied to the rent officer for registration of a fair rent of £955.06 per month for the above property.
2. The registered rent at the date of the application was £190 per week which had been registered by the rent officer on 28 September 2020 with effect from the same date.
3. On 25 August 2022, the rent officer registered a fair rent of £195 per week with effect from 28 September 2022.
4. On 1 September 2022 the landlord objected to the registered rent.
5. The tribunal issued Directions on 5 October 2022 and written representations were received from the tenant, no written representations were received from or on behalf of the landlord.

The Evidence

6. Miss Ware stated that the flat, which was approached via 66 steps, was unmodernised, the kitchen and bathroom fittings were 40 years old. The central heating had been installed in 2012, the windows in the lounge and bedroom had been replaced in 2018 but were badly fitted and draughty. The kitchen and bathroom windows were older, she had taped them to stop the draughts.
7. There was no insulation in the roof slope which resulted in excessive heat in the summer and cold in the winter. There was a large roof light in the hall, over the staircase, which was in poor condition. There had been a number of leaks resulting in patch repairs. Generally, externally the building was in poor condition.
8. She had provided the carpets, curtains and white goods.
9. She referred to a one bedroom flat in Elsham Road which was on the market for £866 per month. It was furnished and in better condition than her own flat. Another flat in Holland Road was available for £1360 per month, it was furnished and in good condition. She also referred to the tribunal's decision in 2018 where deductions were made for the effect of the sloping ceiling and dated fixtures and fittings and scarcity.

The Inspection

10. The property is an end terrace mid Victorian house converted to five flats on basement, ground and three upper floors, including the attic which had two sash windows in the flank wall and small dormers to the front and rear of the building. The slate roof appeared to be original. There was an entryphone adjacent to the front door.
11. The common parts which were carpeted comprise a small entrance lobby and staircase leading to the upper floors, the basement had its own separate entrance. The stairs were steep and at a slight angle indicating the property has been subject to structural movement.
12. The flat comprises a living room, a double bedroom, kitchen and bathroom/wc. The windows are double glazed and central heating is provided via a gas fired boiler which was installed in 2012. The living room and bedroom are situated under the slope of the roof consequently a significant section of each room was of low height. In addition, the rooms suffer from poor natural light as the windows are situated to one end of each room. The kitchen and bathroom are both dated, the fittings are basic and some 40 years old. There was damp to the right of the fireplace affecting the plaster on the flank wall, there was evidence of water ingress in several areas in the living room, kitchen and landing. The tenant had installed opaque tiles below the skylight on the landing.

The Law

13. 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 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.
14. 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

15. 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 supplied by the tenant and its own general knowledge of rental values in West Kensington and concluded that the likely market rent for the property would be £375 per week.
16. However, it was first necessary to adjust the hypothetical rent of £375 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 £50 to reflect the effect of the sloping ceiling, poor natural light in the main rooms and number of steps to the accommodation and a further £100 to reflect its present condition and the difference in the terms of the tenancy, dated kitchen and bathroom, and the lack of carpets, curtains and white goods which are usually provided on the open market.
17. 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 approximately 20% from the adjusted market rent to reflect this element. The Tribunal's uncapped fair rent is £180 per week.

Decision

18. 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 £241 per week calculated under the Rent Acts (Maximum Fair Rent) Order 1999.
19. Accordingly, the sum of £180 per week will be registered as the fair rent with effect from 16 January 2023 being the date of the Tribunal's decision.

Chairman: Evelyn Flint

Dated: 17 January 2023

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.