



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

**Case Reference** : **LON/00AP/F77/2022/0118**

**Property** : **Room 8, 67, Hornsey Lane, London, N6 5LE**

**Tenant** : **Ms M Gallagher**

**Landlord** : **Mr A K Grossnass**

**Date of Objection** : **8 June 2022**

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

**Tribunal** : **Ms H C Bowers MRICS Valuer Chair  
Mr A Ring**

**Date of Reasons** : **6 February 2023**

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**DECISION**

**The sum of £152.00 per week will be registered as the fair rent with effect from 1 February 2023, being the date the Tribunal made the Decision.**

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## **Background**

1. On 28 April 2022 the Landlord applied to the Rent Officer for registration of a fair rent of £167.00 per week for the studio (room 8) on the second floor at 67, Hornsey Lane, London, N6 5LE (the subject property).
2. The rent was previously registered on 29 May 2020 at £144.00 per week with effect from 29 May 2020. On 30 May 2022 the Rent Officer registered a fair rent of £145.00 per week with effect from 30 May 2022. This rent appears to have been the rent determined under section 70 of the Rent Act 1977 and was below the capped rent as provided for by The Rent Acts (Maximum Fair Rent) Order 1999.
3. By an email dated 8 June 2022 the Landlord 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 22 July 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.

## **Hearing and Evidence**

8. A hearing was held on 1 February 2023 at 10, Alfred Place, London, WC1E 7LR. Mr Grossnass attended the hearing, but Ms Gallagher did not attend.

## Tenant's Submissions

9. There were no written submissions from the Tenant

### Landlords' Submissions

10. Mr Grossnass explained that Flat 5 is situated in the same building and is directly below the subject studio and is currently let to a sitting tenant at £1,140 per month. He explained that he only increases rents for sitting tenants by £5 per month on each increase. This comparable is a self-contained unit. Mr Grossmass confirmed that he owned the neighbouring property at 69, Hornsey Lane. In that property is a studio with shared facilities at a rent of £850 per month but it is a unit to the front of the property and facing the busy road. On the ground floor of 67 Hornsey Lane, Flat 1 let for £1,265 per month. This flat is a studio but with a partially partitioned area for the bedroom. It has been modernised with a kitchen area and a bathroom.

11. The subject studio is on the second floor and has views over the rear communal gardens rather than onto the busy road at the front. From the studio is direct access to a balcony/fire escape. Mr Grossnass confirmed the carpets and cooker have been provided by the Landlord and the Tenant has provided the curtains and the fridge.

12. Mr Grossnass provided a suggested valuation for the subject flat with a market rent of £900 per month and a deduction of 20% for scarcity. This gave a net rent of £720 per month, equating to £166 per week. He stated that this would be inclusive of service charges.

13. 67 Hornsey Lane is described as having a basement area which had a separate access. In the main house are two self-contained flats on the ground floor; three flats on the first floor, two of which are self-contained. In the second floor are four rooms but subject to three tenancies and there is a self-contained flat on the third floor. There are two shared bathrooms, one on the first floor with a WC and a separate WC and one bathroom on the ground floor with a separate WC. The bathroom facilities are shared by five people. There is a washing machine for shared use in one of the ground floor cupboards.

### **Inspection**

14. The Tribunal inspected the property on 1 February 2023. The property is a second floor, studio flat located in a converted house. The house is situated on a busy road. It is of brick and mansard tiled roof construction. There is a basement and ground to third floor accommodation. There is an entryphone. The studio is of a good size approximately 20m<sup>2</sup>. The facilities are unmodernised and the few kitchen units are dated and have suffered from wear and tear. There is a window to the area and a wooden door to the rear balcony/fire exit. The wooden door is badly fitted and has a large gap at the bottom. The window above the door is stuck ajar. There is an un-operational gas fire and Ms Gallagher has provided her own electric radiators. The studio overlooks the rear and onto the communal land, but this land is uncultivated.

15. The shared bathroom on the first floor has a WC, sink and bath with a shower over and an electric wall heater. There is a separate WC but this has no wash hand basin. On the ground floor there is a bathroom with no natural light there is a bath with a shower over and a wash hand basin and a separate WC.

### **Determination and Valuation**

16. 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.

17. The evidence of the studio in the adjoining property with shared facilities at £850 per month is useful. It is noted that this is a unit at the front in contrast with the subject studio which has a rear aspect. We note that Mr Grossnass has suggested a starting rent of £900 per month for the subject property and we agree that this is within a range of rents that we would expect for this type of properties. However, the subject studio has dated facilities but more importantly there are a number of items of disrepair around the kitchen units and the rear door and windows. We consider that given the lack of heating, that a prospective tenant for this studio would lower their rental bid to reflect the disrepair. We consider the reduction would be in the region of £75. This would reduce the rental before scarcity to £825 per month.

18. The 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.

Market Rent		£/month
		900
Less		
Disrepair		<u>75</u>
		825
Less		
Scarcity	approx. 20%	<u>165</u>
		660

19. The sum of £660 per month and equates to approximately £152.00 per week.

### **Decision**

20. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £152.00 per week. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at £185.00 per week. The calculation of the capped rent is shown on the decision form. In this case the lower rent of £152.00 per week is to be registered as the fair rent or this property.

**21. Accordingly, the sum of £152.00 per week will be registered as the fair rent with effect from 1 February 2023 being the date of the Tribunal's decision.**

**Chairman: Ms H C Bowers**

**Date: 6 February 2023**

### **APPEAL PROVISIONS**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).