



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

Case reference : LON/00BG/F77/2022/0087

Property : Flat 8 Weaver House, Pedley Street,
London, E1 5ES

Applicant : Mr F Frixou

Respondent : Gateway Housing Association

Date of application : 5th May 2022

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

Tribunal member(s) : Mr Ian B Holdsworth MSc FRICS
RICS Registered Valuer 0079475
Judge Sarah McKeown

Venue : 10 Alfred Place, London WC1E 7LR

Date of decision : 26 October 2022

DECISION

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Background

1. The Landlord applied to the Rent Officer for the registration of a fair rent for this property on 18 March 2022.
2. A fair rent of £179.18 per week per annum was registered on 1 March 2022 following the application. The Tenant Mr Frixou subsequently challenged the registered rent and the Rent Officer has requested the matter to be referred to the tribunal for determination.
3. The Tribunal informed the parties of their rights to request an oral hearing.
4. The Tenant requested a hearing. A video hearing was held to discuss the application and any written submissions on this matter. Mr. Frixou attended the hearing and made oral submissions. Gateway Housing Association did not attend.
5. An inspection of the property was not carried out.

Hearing

6. This was a hearing on the papers held on 26 October 2022.
7. The Tenant provided a detailed description of the property. The property is a ground floor flat. The accommodation comprises kitchen, diner, lounge, bathroom/WC, bedroom 1, bedroom 2.
8. The Applicant confirmed that there are no material defects to the property and he had not carried out any improvements during his tenancy. He said the noise caused by the operation of the DLR and the near proximity of the rail line caused any users of the flat disturbance and inconvenience.

Market Rental Evidence

9. The Tenant provided details of comparable market rents of similar property in the locality the Tribunal has had regard for any relevant information submitted.
10. The Tenant explained the proximity of the District light railway to the dwelling. He contended that the noise from the railway made a number of rooms in the property uninhabitable.

The law

11. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, "the Act", it 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.

12. In **Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee (1995)** and **Curtis v London Rent Assessment Committee [1999]** the Court of Appeal emphasised that ordinarily a fair rent is the market rent for the property discounted for 'scarcity'. This is 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.
13. The Tribunal are aware that **Curtis v London Rent Assessment Committee (1999) QB.92** is a relevant authority in registered rent determination. This authority states where good market rental comparable evidence i.e., assured shorthold tenancies is available enabling the identification of a market rent as a starting point it is wrong to rely on registered rents. The decision stated: *"If there are market rent comparables from which the fair rent can be derived why bother with fair rent comparables at all"*.
14. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
15. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.
16. The Upper Tribunal in **Trustees of the Israel Moss Children's Trust v Bandy [2015]** explained the duty of the First Tier Tribunal to present comprehensive and cogent fair rent findings. These directions are applied in this decision.
17. **The Rent Acts (Maximum Fair Rent) Order 1999** applies to all dwelling houses where an application for the registration of a new rent is made after the date of the Order and there is an existing registered rent under part IV of the Act. This article restricts any rental increase to 5% above the previously registered rent plus retail price indexation (Rpi) since the last registered rent.

Valuation

18. 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 that is considered usual for such an open market letting. It did this by having regard to their general knowledge of market rent levels in this area of East London.
19. Table 1 below provides details of the fair rent calculation:

Table 1						
Property: Flat 8 Weaver House, Pedley Street, London, E1 5ES						
Fair rent calculation in accordance with (70) Rent Act 1977						
Market rent				£500.00	per week	
Disregards				Deductions	per week	% per week
Carpets , curtains white, goods, soft furnishing					£37.50	7.50%
Dilapidations					per week	% per week
None					£0.00	0.00%
Tenants repair and other liabilities						
Section 11 liabilities					£0.00	0.00%
Adequate repair						
Proximity of over ground railway						
Noise and disturbance caused by operation of railway					£125.00	25.00%
				Total deductions	£162.50	32.50%
				Adjusted Rent balance	£337.50	
Less Scarcity 20:00%			adjusted market rent		£67.50	
Adjusted Market Rent					£270.00	per week
						Uncapped rent
Capped rent in accordance with					£ 195.18	per week
						Capped rent
<i>Rent Acts (Maximum Fair Rent) Order 1999</i>						

20. The Tribunal had regard for the proximity of the dwelling to the District Light Railway. They reviewed the information provided to them about the impact on the property of the noise generated by the railway prior to the construction. They noted that there was no evidence provided by a noise expert on the extent of the current level of noise and the likely impact on the enjoyment of the dwelling. The Tribunal have relied upon the evidence before them in determination of the adjustment for noise disturbance caused by railway operation.

Decision

21. In determination of the Fair Rent the Tribunal has made what they deem an appropriate adjustment based on the evidence submitted.
22. The Rent Acts (Maximum Fair Rent) Order (“**the Order**”) will apply to this determination. The uncapped fair rent initially determined by the Tribunal for the purposes of Section 70 is **£270.00** per week by virtue of the Order the maximum fair rent that can be registered for this property is **£198.18** per week.

23. The statutory formula applied to the previously registered rent is at Annex A.
24. Details of the maximum fair rent calculations were provided with the original notice of decision.
25. Accordingly, the sum that will be registered as a fair rent with effect from **26 October 2022** is **£195.18 per week**.

Valuer Chairman: Ian B Holdsworth

Dated: 14th December 2022

Appendix A
The Rents Act (Maximum Fair Rent) Order 1999

(1) Where this article applies, the amount to be registered as the rent of the dwelling-house under Part IV shall not, subject to paragraph (5), exceed the maximum fair rent calculated in accordance with the formula set out in paragraph (2).

(2) The formula is:

$$\text{MFR} = \text{LR} \left[1 + \frac{(x-y)}{y} + P \right]$$

where:

- 'MFR' is the maximum fair rent;
- 'LR' is the amount of the existing registered rent to the dwelling-house;
- 'x' is the index published in the month immediately preceding the month in which the determination of a fair rent is made under Part IV;
- 'y' is the published index for the month in which the rent was last registered under Part IV before the date of the application for registration of a new rent; and
- 'P' is 0.075 for the first application for rent registration of the dwelling-house after this Order comes into force and 0.05 for every subsequent application.

(3) Where the maximum fair rent calculated in accordance with paragraph (2) is not an integral multiple of 50 pence the maximum fair rent shall be that amount rounded up to the nearest integral multiple of 50 pence.

(4) If $\frac{(x-y)}{y} + P$ is less than zero the maximum fair rent shall be the y existing registered rent.