



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

Case Reference : **LON/00BJ/F77/2022/0199
P:PAPERREMOTE**

Property : **46 Rockbourne Road Forest Hill London
SE23 2DD**

Applicant : **Mr D W Humber**

Respondent : **Stoy 2015 LLP**

Date of Application : **28 June 2022**

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

Tribunal : **Mrs E Flint FRICS
Mr J Francis QPM**

**Date and venue of
Hearing** : **22 February 2023
10 Alfred Place London WC1E 7LR**

DECISION

This has been a hearing on the papers which has been consented to by the parties. 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 22 February 2023 is £720 per month.

Background

1. On 18 April 2022 the landlord applied to the rent officer for registration of a fair rent of £1100 per month for the above property.
2. The registered rent at the date of the application was £624.50 per month which had been registered by the rent officer on 3 August 2020 with effect from the same date.
3. On 13 June 2022, the rent officer registered a fair rent of £744 per month with effect from 3 August 2022.
4. On 28 June 2022 the tenant objected to the registered rent.
5. The tribunal issued Directions on 21 July 2022. The landlord and tenant made written representations prior to the hearing.

The Evidence

6. The landlord stated that the tenant had modernised the house and maintained it well. A floor plan showing the current layout was provided together with a letter from a local agent advising that the open market rental value was £2300 per month.
7. The tenant was of the opinion that the increase in rent was excessive. He had provided the central heating and double glazing, fitted out the kitchen, replaced that bathroom and wc fittings, provided the carpets, curtains and white goods, created a parkin space in the front garden and decorated the exterior of the property.

The Inspection

8. The tribunal inspected the property on the morning of 22 February 2023 in the presence of the tenant. The property is a terraced house in a residential street of similar properties close to bus stops, Forest Hill station and local shops.
9. The accommodation comprises two rooms and kitchen on the ground floor and two double and a single bedroom, and bathroom and separate wc on the first floor. French windows in the kitchen lead into the rear garden which provides access to a brick building attached to the house used as a store room but was a scullery at the beginning of the tenancy, there being no other sink at ground floor level at that time.
10. The tenant has modernised the entire house to a good standard: including installing double glazed windows and central heating, converting the rear

right room into a kitchen with fitted units and appliances, a modern bathroom and separate wc and boarded out the loft.

The Law

11. 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.
12. 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

13. 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 the evidence supplied by the landlord and its own general knowledge of rental values in Forest Hill and concluded that the likely market rent for the property would be £2300 per month.
14. However, it was first necessary to adjust the hypothetical rent of £2300 per month 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 £1400 to reflect the difference in the terms of the tenancy, single glazed windows, no heating, no wash basin, dated bath,

scullery accessed via the garden and the lack of carpets, curtains and white goods which are usually provided on the open market.

15. This leaves an adjusted market rent for the subject property of £900 per month. 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 720 per month.

Decision

16. The uncapped fair rent initially determined by the tribunal, for the purposes of section 70, was accordingly £720 per month. This is below the maximum fair rent of £799 per month calculated under the Rent Acts (Maximum Fair Rent) Order 1999.
19. Accordingly, the sum of £720 per month will be registered as the fair rent with effect from 22 February 2023 being the date of the tribunal's decision.

Chairman: Evelyn Flint

Dated: 23 February 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.

