



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

Case Reference	:	JM/LON/00BB/F77/2022/0290
Property	:	81 Roman Road, London, E6 3RY
Landlord	:	Messrs Feldman and Freifeld
Tenant	:	Jean Doughty
Type of Application	:	Assessment of Fair Rent
Tribunal Members	:	Judge Robert Latham Oliver Dowty MRICS
Date and venue of Determination	:	28 March 2023 at 10 Alfred Place, London WC1E 7LR
Date of Reasoned Decision	:	28 March 2023

EXTENDED REASONS

Background

1. On 22 September 2022, the landlord applied to the Rent Officer for the registration of a fair rent of £130 per week for 81 Roman Road, London, E6 3RY ("the property") pursuant to Part IV of the Rent Act 1977 ("the Act"). The landlord was charging a rent of £110 pw.
2. On 2 November 2022, the Rent Officer registered a fair rent of £110 per week. He first assessed the market rent to be £276.92 per week. He then made adjustments of £155 (50%), having regard to four factors: tenant's decoration liability, poor repair/decorations, no white goods, and no floor coverings/curtains. The Rent Register records that the tenant installed the bathroom and demolished the external wc. He finally made a deduction of £11.92 pw (10%) for scarcity. He assessed the fair rent at £110 pw.

3. He also computed the “capped rent” to be £110 pw. However, this seems to be unduly low.
4. The landlord requested the Rent Officer to refer the matter to the First-tier Tribunal (Property Chamber) (the “Tribunal”). Soloman Freifeld, from Stock Page Stock, has made written representations. He argues that rents in the street are at least £250 pw. The property is in "mint condition". He enclosed invoices of expenses incurred to in respect of works to the front of the house. He suggests a fair rent of £150 pw.

The Inspection

5. The Tribunal inspected the property. Ms Doughty was present. The landlord did not attend.
6. The property is a "Docker's Cottage" which was constructed in the 1900s. It is a two storey terraced property with two bedrooms upstairs and two rooms downstairs. There was a scullery in a rear extension and an external toilet.
7. The tenancy commenced in 1975. Ms Doughty's husband was a builder. With the consent of the landlord, he carried out major refurbishments. He constructed a ground floor rear extension which accommodated a new kitchen and bathroom. He removed an internal partition on the ground floor to create a large living room. He changed the direction of the stairs.
8. There have been problems of dampness. The landlord has made a number of attempts to address dampness at the front of the property, which now seem to have proved successful. There was some evidence of dampness in the rear bedroom. Mrs Doughty has maintained the property to a high standard.

The Law

9. When determining a fair rent in accordance with section 70 of the Act, the Tribunal:
 - (1) has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
 - (2) disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
 - (3) assumes (as required by s.70(2)) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words that the effect of any such ‘scarcity’ on rental values is not reflected in the fair rent of the subject property.

10. 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 section 70 means that:
 - (a) ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' and
 - (b) 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).
11. Thus, once the market rent for the property has been determined by the exercise in (2) above that rent must be adjusted, where necessary, for any scarcity.
12. Having assessed a fair rent, a Tribunal must consider the effect of the Rent Act (Maximum Fair Rent) Order 1999. We annexe this as Appendix 2.
13. In reaching our determination, the Tribunal has taken into account the documents provided by the Rent Officer, the representations provided by the landlord and our findings on viewing the property.

Our Assessment of the Fair Rent

(i) The Market Rent

14. The Tribunal first determines the fair rent in accordance with section 70 of the Act. Our starting point is to determine the rent which the landlord could reasonably expect to obtain for the premises in the open market if it were let today in the condition that is considered usual for such an open market letting in this locality.
15. The Rent Officer has provided a schedule of rents in E6 which range from £185 to £484.62. The Rent Officer took a figure of £253.85 which is at the lower end of the scale.
16. Applying our knowledge as an expert tribunal, we are satisfied that the figure adopted by the Rent Officer is unduly low and we assess the market rent at £350 pw.

(ii) The Adjusted Rent

17. Secondly, this property is not let under the terms or in the condition considered usual for a modern letting at a market rent. Substantial adjustments must be made for this and for the disrepair that we have identified. The Rent Officer made a deduction of 56%.
18. We are satisfied that substantial deductions should be made and we assess this at 60% in respect of the following:

(i) The very basic condition in which the property was let and the substantial improvements carried out by the tenant, including the erection of the rear addition;

(ii) Terms and conditions;

(iii) No carpets, curtains or white goods;

(iv) Some disrepair

19. The most significant factor is the very basic condition of the property at the commencement of the tenancy and the major improvements which have been executed by the tenant. We make a deduction of 40% in respect of this. We make a deduction of 20% in respect of the other factors. We considered these factors separately and then considered whether the overall reduction is justified. We are satisfied that it is. We determine an adjusted rent of £140 pw.

(iii) Scarcity

20. Finally, we must consider the issue of scarcity. The Rent Officer made a reduction of 10% in respect of this.
21. In *Yeoman's Row Management Ltd v London Rent Assessment Committee* [2002] All ER (D) 148 (Apr), Ousley J held that scarcity must be considered over a wider area than a particular locality. Greater London is now considered to be an appropriate area to use as a yardstick for measuring scarcity.
22. Applying our own general knowledge, and having regard to the collective knowledge of our expert members on Tribunals in London, we conclude that 20% is the appropriate reduction to make for scarcity in Greater London.
23. We therefore reduce the adjusted rent by £28 pw (20%). This results in our assessment of a fair rent of £112 per week.

The Capped Rent

24. It is then necessary for the Tribunal to compute the "capped rent" applying the Maximum Fair Rent Order. We annexe our calculation to our decision and computed a figure of £140 pw.
25. As the capped rent is higher than the fair rent that we have determined, it is the fair rent that is payable.

Decision

26. The Tribunal determines a fair rent of £112 per week.

Judge Robert Latham, 28 March 2023

Appendix 1: Calculation of fair rent

1. Market rent in good condition with modern amenities	£350 pw
2. Less adjustments for the following (60%):	£210 pw
(i) The very basic condition in which the property was let and the substantial improvements carried out by the tenant, including the erection of the rear addition;	
(ii) Terms and conditions;	
(iii) No carpets, curtains or white goods;	
(iv) Some disrepair	
Adjusted Rent:	£140 pw
3. Less scarcity in locality (Greater London) (20%):	£28
Fair Rent:	<u>£112 pw</u>
 Rent limit provided for by the Rent Acts (Maximum Fair Rent) Order 1999	 £140 pw
 Fair Rent Determined	 £112 pw
	<hr style="border-top: 3px double black;"/>

Appendix 2

The Rent Acts (Maximum Fair Rent) Order 1999 (SI 1999 No.6)

Article 2

(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: $MFR = LR [1 + (x-y)/y + P$

where—

MFR is the maximum fair rent;

LR is the amount of the existing registered rent for 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 $(x-y)/y + P$ is less than zero the maximum fair rent shall be the existing registered rent.

(5) In applying this article no account shall be taken of any variable sum to be included in the registered rent in accordance with section 71(4) of the 1977 Act.

(6) Subject to paragraph (7), this article applies where an application for the registration of a new rent in respect of a dwelling-house is made after this Order comes into force and, on the date of that application, there is an existing registered rent under Part IV in respect of that dwelling-house.

(7) This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.

(8) For the purposes of this article:

(a) references to Part IV are to be Part IV of the 1977 Act;

(b) “common parts in relation to a building, includes the structure and exterior of the building and common facilities provided for the occupiers of the dwelling-houses in the building;

(c) “index” means the monthly United Kingdom Index of Retail Prices (for all items) published by the Office for National Statistics.