



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

Case Reference : **KA/LON/OOBK/F77/2022/0163**

Property : **1st and 2nd floor maisonette 25 Denbigh Street London SW1V 2HF**

Applicant/tenant : **Ms B J Cooper**

Representative : **In person**

Respondent/landlord : **Northumberland and Durham Property Trust Limited**

Representative : **Non-attendance**

Type of Application : **Section 70 Rent Act 1977 – to determine a fair rent**

Tribunal Members : **Professor Robert M Abbey
Alison Flynn MA MRICS**

Date of Decision : **3 May 2023**

REASONS for DECISION

1. Decision

- 1.1 The decision of the tribunal is that the fair rent to be registered is £10920 per annum payable with effect from 3 May 2023 the date of the tribunal's decision.
- 1.2 The registered rent is not to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)).

2. Background

- 2.1 On 11 July 2022 the landlord applied to the Rent Officer for registration of a fair rent for the property.
- 2.2 On 24 August 2022 the Rent Officer registered a rent of £12211.50 per annum effective from the 9 October 2022 following a determination by the Rent Officer.
2. By a letter dated 22 September 2022 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the tribunal.

3. Inspection

- 3.1 The tribunal inspected the property on 3 May 2023 in good sunny weather. Ms Cooper was able to be present and she showed us around the property. The property is a small self-contained converted flat comprising three rooms on the first and second floors accessed by a steep staircase. It has a separate bathroom and separate WC but which has awkward access. The property has a well-maintained external brick facade. It has sash windows that are original and poorly maintained. It is situated in a good residential area; in a street of similar substantial terrace houses mixed with commercial units. The flat is small and suffers from a poor and awkward layout. The kitchen is moderate in size and contains the tenant's own white goods. The sink units and cupboards are all old and worn. At the time of the inspection the taps in the bath did not work and looked old and in need of replacement as did the whole bathroom which was extremely cramped. There was no central heating system. There were old storage heaters in rooms, but the tenant said that they did not function well. There is no working entry phone system for the flat either. There was clear evidence of damp and cracking to walls in most of the rooms and corridors of the flat. The property does not have the benefit of an easily accessible fire escape. Internally, all the windows appeared to be in poor condition and the tenant said that they were draughty and did not work.

4. Evidence and hearing

- 4.1 The tribunal received written representations from the tenant but not from the landlord. The tenant requested a formal hearing.

5. The law

- 5.1 When determining a fair rent the tribunal, in accordance with the Rent Act 1977, section 70, must have 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.
- 5.2 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:
- 5.2.1 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
- 5.2.2 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).

6. Reasons for the decision

- 6.1 In coming to our decision we had regard to the representations made by the tenant. In arriving at our determination, we have made due allowance to reflect all that we saw read and heard.
- 6.2 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. Evidence of market rents were not provided by the landlord or the tenant. The Tribunal had regard to its own general knowledge of market rent levels in the area of SW1. To that end the Tribunal was of the opinion that the market rent would be £525 per week.
- 6.3 The Tribunal was also minded to deduct 50% for white goods not provided in the property fixtures and fittings, carpets and curtains and differing repairing covenants. The Tribunal also took account of the variable hot water supply and lack of water in the bath in the bathroom. The deduction also took account of the poor layout, no central heating and unmodernised kitchen and bathroom. This gave a deduction representing the 50% of £262.50, thereby reducing the rental to £262.50. Furthermore, the Tribunal was of the opinion that there was substantial scarcity in the locality of Greater London for similar properties and therefore considered the possibility of a deduction of

20% from the market rent to reflect this element. Accordingly, we found that there was substantial scarcity in the locality of Greater London and that affected the rent of this property and therefore made a deduction of 20% from the adjusted market rent. The scarcity element of 20% amounted to £52.50 giving an adjusted market rental of £210 being £10920 per annum. So, we determined that the uncapped fair rent for the purposes of section 70 was £10920 per annum.

6.6 By virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be registered in the present case is the sum of £13148. (Details are provided on the back of the decision form).

6.9 Therefore, the sum of £10920 per annum will be registered as the fair rent with effect from 3 May 2023 being the date of the Tribunal's decision.

Judge: Professor Robert M Abbey

Date: 3 May 2023