



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

Case reference : **FL/LON/00AT/F77/2023/0014**

Property : **5 Roxborough Avenue, Isleworth,
Middlesex, TW7 5HG**

Applicant : **Northumberland and Durham Property
Trust Limited**

Representative : **Grainger Residential Management
Limited**

Respondent : **Mrs Razamany Amal Josephine
Bouchereau**

Representative : **None**

Date of application : **16 December 2022**

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

**Tribunal
member(s)** : **Oliver Dowty MRICS**

Venue : **Remote**

Date of decision : **21 March 2023**

REASONS FOR DECISION

Background

1. The Landlord applied to the Rent Officer for the registration of a fair rent for this property on 20 October 2022.
2. A fair rent of £1,195 per calendar month was registered on 27 November 2022 following the application, such rent to have effect from 16 January 2023. The landlord subsequently challenged the registered rent and the Rent Officer has requested the matter be referred to the tribunal for determination.
3. Directions were issued on 23 January 2023 by the Tribunal.
4. The parties were invited to submit any relevant information and submissions. Written submissions were received from both the landlord and the tenant.
5. Neither party requested a hearing in this matter, and the Tribunal did not consider that one was necessary. The Tribunal therefore determined this matter on the basis of the information provided to it in writing.

The property

6. Neither party indicated that they wished the property to be inspected. The Tribunal were of the view that sufficient information regarding the property had been provided to enable the determination of this matter without an inspection.
7. The property comprises a 2 storey, 3 bedroom semi-detached house, which appears to have been constructed in the interwar period.
8. The property is located on Roxborough Avenue in Isleworth, West London. The property is in reasonable proximity to Syon Lane train station.
9. The Tribunal has not been informed of any dilapidations at the property.
10. The property benefits from central heating and double glazing installed by the landlord. The tenant provided carpets, curtains and white goods – save for a cooker provided by the landlord.

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. The relevant registered rent in this matter was registered on 20 November 2020 at £1,145 per calendar month. The rent registered on 27 November 2022 subject to an Objection and subsequent determination by the Tribunal is not relevant to this calculation.

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.

19. The landlord provided evidence of two asking rents in their submissions, from Wellington Road South, Hounslow and Argyle Avenue, Hounslow at asking rents of £1,900 and £2,195 per calendar month (PCM) respectively. In the listing details provided, the property on Wellington Road South was said to be a 3/4 bed semi-detached house, and the property on Argyle Avenue was said to be a 3 bed semi-detached house.
20. The Tribunal considered that both properties referred to by the landlord were too distant geographically from the subject to assist in the valuation of it.
21. The tenant did not provide any evidence concerning the value of the property.
22. As the sole evidence of value submitted to the Tribunal was in the form of two asking rents, neither of which the Tribunal determined was helpful, the Tribunal considered the value of the property in the context of their general knowledge of rental levels in this area of West London.
23. The Tribunal determined that a rent of £2,000 per calendar month for the subject property, were it let on the open market in the condition considered usual for such a letting, would be appropriate.
24. This hypothetical rent is adjusted as necessary to allow for the differences between the terms and conditions considered usual for such a letting and the condition of the actual property at the date of the determination. Any rental benefit derived from tenant's improvements is disregarded. It is also necessary to disregard the effect of any disrepair or other defects attributable to the tenant or any predecessor in title.
25. The responsibility for internal decorations and internal repairs of the property under the tenancy agreement is the responsibility of the tenant. This is a material valuation consideration and a deduction of 12.5% from the Market Rent is made to reflect this liability.
26. The tenant provided the carpets and curtains, as well as the majority of the white goods at the property, however a cooker was provided by the landlord. A deduction of 4% was therefore made from the market rent to reflect this.
27. The landlord in their submissions informed the Tribunal that the bathroom and kitchen at the property are "aged", and as such deductions of 2.5% from the market rent were made by the Tribunal to account for a lack of modernisation in each of those areas separately.
28. The provisions of section 70(2) of the Rent Act 1977 in effect require the elimination of what is called "scarcity". The required assumption

is of a neutral market. Where a Tribunal considers that there is, in fact, substantial scarcity, it must make an adjustment to the rent to reflect that circumstance. In the present case neither party provided evidence with regard to scarcity.

29. The Tribunal then considered the decision of the High Court in **Yeomans Row Management Ltd v London Rent Assessment Committee [2002] EWHC 835 (Admin)** which required it to consider scarcity over a wide area rather than limit it to a particular locality. West London is now considered to be an appropriate area to use as a yardstick for measuring scarcity and it is clear that there is a substantial measure of scarcity in West London.

30. Assessing a scarcity percentage cannot be a precise arithmetical calculation. It can only be a judgement based on the years of experience of members of the Tribunal. The Tribunal therefore relied on its own knowledge and experience of the supply and demand for similar properties on the terms of the regulated tenancy (other than as to rent) and in particular to unfulfilled demand for such accommodation. In doing so, the Tribunal found that there was substantial scarcity in the locality of West London and therefore made a further deduction of 20% from the adjusted market rent to reflect this element.

31. The valuation of a fair rent is an exercise that relies upon relevant market rent comparable transactions and property specific adjustments. The fair rents charged for other similar properties in the locality do not form relevant transaction evidence.

32. Table 1 below provides details of the fair rent calculation:

Property:		5 Roxborough Avenue, Isleworth, Middlesex, TW7 5HG	
Fair rent calculation in accordance with s(70) Rent Act 1977			
Market Rent		£2,000 per month	
Disregards		Deduction per month	as % of monthly rent
White Goods, Floor Coverings, Curtains, etc		£80.00	4%
Lease terms		£250.00	12.50%
Unmodernised bathroom		£50.00	2.50%
Unmodernised kitchen		£50.00	2.50%
	Total deductions	£430.00	21.50%
	Market rent less deductions	£1,570.00 per month	
Less Scarcity	20.00% of Market rent less deductions	£314.00	
Adjusted Market Rent		£1,256.00 per month	
			Uncapped rent
Maximum capped rent in accordance with Rent Acts (Maximum Fair Rent) Order 1999		£1,463 per month	Maximum capped rent
	Fair Rent	£1,256.00 per month	

Decision

33. The Rent Acts (Maximum Fair Rent) Order will not affect this determination. The uncapped fair rent initially determined by the Tribunal for the purposes of Section 70 is £1,256 per calendar month. By virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that could be registered for this property is £1,463 per calendar month. **This is based on a specific 5% increase plus any retail price increases on the previously registered rent of £1,145 per calendar month.**
34. The statutory formula applied to the previously registered rent is at Annex A.
35. Details of the maximum fair rent calculations were provided with the original notice of decision.
36. Accordingly, the sum that will be registered as a fair rent with effect from 21 March 2023 is **£1,256 per calendar month.**

Valuer Chairman: Oliver Dowty MRICS

Dated: 31 May 2023

Appendix A

The Rent Acts (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.