



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

**Case reference** : LON/00AE/F77/2022/0250

**Property** : 1b Spezia Road, London, NW10 4QJ

**Applicant** : Neil Pepler

**Respondent** : Miss E Hansen

**Date of application** : 18 October 2022

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

**Tribunal member(s)** : Mr O Dowty MRICS  
Mr N Miller

**Venue** : 10 Alfred Place, London, WC1E 7LR

**Date of decision** : 14 April 2023

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**REASONS FOR 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 28 August 2022.

2. A fair rent of £619 per calendar month was registered on 11 October 2022 following the application, such rent to have effect from 23 October 2022. The landlord subsequently challenged the registered rent on 18 October 2022, and the Rent Officer has requested the matter be referred to the tribunal for determination.
3. Directions were issued on 24 January 2023 by the Tribunal.
4. The parties were invited to submit any relevant information and submissions. Both parties provided a reply form to the Tribunal with details of the property and its features.
5. In addition, the landlord provided an email he had sent the Rent Officer by way of a further submission. In that email, the landlord voiced his displeasure with the figure adopted by the Rent Officer and drew attention to his having installed double glazing at the property.
6. 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, combined with its inspection of the property.

### **Inspection**

7. Neither party indicated that they required the property to be inspected. However, having considered the matter, the Tribunal was of the view that an inspection was necessary to assist in its valuation of the property. The inspection was carried out, with both the landlord and tenant present, on 14 April 2023.
8. The property comprises a studio flat with a kitchen area and a bathroom located on the first floor of a period property, accessed via an internal staircase. The property is located on a residential street in the Harlesden & Kensal Green ward of the London Borough of Brent, near to Willesden Junction station.
9. The main room is of a large size, and at the date of inspection was generally in a fair condition – the responsibility for internal fixtures and fittings in any case resting on the tenant. The property does not have its own washing machine.
10. The landlord provided a cooker at the property, but the tenant provided the fridge. Similarly, the landlord provided the carpets and a number of furnishings such as tables, cupboards and cabinets, but the tenant provided curtains and some other items of furniture.
11. The kitchen area of the studio is dated, as is the bathroom.
12. The property does not benefit from central heating.

## The law

13. 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.
14. 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.
15. 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”*.
16. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
17. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.
18. 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.
19. **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 23 October 2020 at £607 per calendar month. The rent registered on 11 October 2022 subject to an Objection and subsequent determination by the Tribunal is not relevant to this calculation.

## Valuation

20. 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.
21. Neither party provided any comparable evidence of value for the Tribunal to consider. As such, the Tribunal considered the value of the property in the context of their general knowledge of rental levels in this area of North-west London.
22. The Tribunal determined that a rent of £1,100 per calendar month (PCM) for the subject property, were it let on the open market in the condition considered usual for such a letting, would be appropriate.
23. 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.
24. The Tribunal made a deduction of 2.5% from the market value to account for the landlord's only providing a cooker by way of white goods and the tenant's provision of some furnishings such as curtains.
25. The Tribunal was of the opinion that the market value it had arrived at already reflected the lack of a washing machine at the property and so no further adjustment was needed to account for this.
26. The responsibility for internal fixtures and fittings at the property under the tenancy agreement is borne by the Tenant. This is a material valuation consideration and a deduction of 7.5% from the Market Rent is made to reflect this liability.
27. The kitchen and bathroom at the property are dated, and as such the Tribunal made a deduction of 2.5% from the market rent for each of these areas (a 5% deduction in total).
28. The Tribunal made a further deduction of 5% to account for the lack of central heating.
29. 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.

30. 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. North-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 North-west London.
31. 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 North-west London and therefore made a further deduction of 20% from the adjusted market rent to reflect this element.
32. 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.
33. Table 1 below provides details of the fair rent calculation:

|   |   |                                |                |                     |                      |  |  |
|---|---|--------------------------------|----------------|---------------------|----------------------|--|--|
| <b>Property:</b>  | <b>1b Spezia Road, London, NW10 4QJ</b> |                                |                |                     |                      |  |  |
| <b>Fair rent calculation in accordance with s(70) Rent Act 1977</b>             |   |                                |                |                     |                      |  |  |
| Market Rent   |   |                                | £1,100         | per month           |                      |  |  |
| <b>Disregards</b>   |   |                                |                |                     |                      |  |  |
|   |   |                                |                | Deduction per month | as % of monthly rent |  |  |
| Lease terms   |   |                                | £82.50         |                     | 7.5%                 |  |  |
| Partial white goods & some furnishings provided by tenant                       |   |                                | £27.50         |                     | 2.50%                |  |  |
| No central heating  |   |                                | £55.00         |                     | 5%                   |  |  |
| Dated bathroom  |   |                                | £27.50         |                     | 2.50%                |  |  |
| Dated kitchen   |   |                                | £27.50         |                     | 2.50%                |  |  |
|   |   | Total deductions               | £220.00        |                     | 20.00%               |  |  |
|   |   | Market rent less deductions    | £880.00        | per month           |                      |  |  |
| Less Scarcity   | 20.00%                                  | of Market rent less deductions | £176.00        |                     |                      |  |  |
| Adjusted Market Rent  |   |                                | £704.00        | per month           | Uncapped rent        |  |  |
| Maximum capped rent in accordance with Rent Acts (Maximum Fair Rent) Order 1999 |   |                                | £782.5         | per month           | Maximum capped rent  |  |  |
|   |   | <b>Fair Rent</b>               | <b>£704.00</b> | per month           |                      |  |  |

## Decision

34. 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 £704 per calendar month. By virtue of the rent acts maximum fair order 1999 the maximum fair rent that could be registered for this property is £782.50 per calendar month. **This is based on a specific 5% increase plus any retail price increases on the previously registered rent of £607 per calendar month.**
35. The statutory formula applied to the previously registered rent is at Annex A.
36. Details of the maximum fair rent calculations were provided with the original notice of decision.
37. Accordingly, the sum that will be registered as a fair rent with effect from 14 April 2023 is **£704 per calendar month.**

Valuer Chairman: Mr Oliver Dowty MRICS

Dated: 4 July 2023

## **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:

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

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