



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

Case Reference	: LON/00AU/F77/2023/0073.
Property	: 99B Noel Road, London, N1 8HD.
Applicant	: Ms. V. Canchon.
Representative	: In person.
Respondent	: Peabody Trust
Representative	: In person.
Type of Application	: Rent Act 1977 (“the Act”) reasons for the determination of the fair rent of a property following an objection to the rent registered by the Rent Officer
Tribunal Member(s)	: Tribunal Judge Aileen Hamilton-Farey.
Date of Decision	: 14 April 2023. Date of Reasons: 28 June 2023.

REASONS FOR THE DECISION

1. By an RR1 dated 16 November 2022, the landlord made an application to re-register the rent of the subject property. At the time of the application the rent charged by the landlord was £106.79 per week, exclusive of council tax. At the time the rent register showed a registered fair rent of £130.50, following a registration of rent on 17 November 2017. From that evidence I conclude that the rent for the property had not been increased since 2017, and that the landlord was charging less than the registered rent.
2. The landlord sought an increase in rent to £155.54.

3. On 4 January 2023, the Rent Officer re-registered the rent at |3176.50 per week. The tenant objected to the increase and the matter was referred to this tribunal.
4. The documents sent to the tribunal by the Rent Officer included the Rent Register of 2017 and the new Register for 2023, together with the objection letter from the tenant, and the RR1 application form.
5. The tenant's objection was based on the fact that in their view the increase was too high, and that the landlord did not carry out repairs as required.
6. The Tribunal issued directions that informed the parties that the application would be dealt with on the papers, without a hearing in accordance with Rule 31 of the Tribunal Procedure Rules. No objections to this were received and the tribunal therefore proceeded to set the rent.
7. The directions also requested that the parties provide details of any repairs or improvements carried out by either the landlord or tenant, and to provide details of any rents for similar properties that they wished the tribunal to consider. The parties were provided with a form to complete giving details of the property, improvements etc to be relied on.
8. The tenant completed the form to confirm that the property comprised two rooms, kitchenette and bathroom/WC and had full central heating in accordance with the Rent Register. Neither party provided details of any comparable market rents on which they wished to rely in support of a claim that the fair rent set by the Rent Officer was too high.

Inspection

9. The property was not inspected, and the tribunal used the documents provided to it.

The law

10. 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, but excluding any personal circumstances of either the landlord or tenant. The tribunal must also disregard 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. In this case, no evidence was provided of either disrepair or improvement by the tenant.
11. Case law informs the Tribunal.

- a. 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
- b. 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).

Consideration and Valuation

12. The tribunal must therefore disregard the fact that the landlord is a 'social landlord' and at the time of the original application, was charging less than the registered rent. The starting point for the tribunal must be the existing registered rent (in this case £130.50, and not the £106.79 being charged).
13. The tribunal is required to apply a statutory 'capping' formula to the existing registered rent, which is designed to ensure that the Registered Rent is the lower of either the existing rent plus the formula, or the market rent adjusted for scarcity and the differences between a market rent tenancy and the current tenancy. The case law prohibits the tribunal from considering other registered rents in the vicinity.
14. In this case neither party produced evidence of market rents that the tribunal should consider. As noted above, the tribunal must take a starting point of the market rent for the property in its current location and condition, make adjustment to reflect that condition and the terms of the tenancy, and then make an adjustment for scarcity.
15. 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. The Tribunal did this by having regard to its wide general knowledge and experience of the letting marketed in Greater London. The tribunal arrived at a market rent **of £600.00 per week.**
16. However, the rent referred to in the above paragraph is on the basis of a modern open market letting where the tenant has no liability to carry out repairs or decorations, there are up to date bathroom and kitchen fittings, the landlord supplies white goods, carpets and curtains and there are no wants of repair.
17. The tribunal must therefore make adjustments to reflect the lower bid a prospective tenant would make to reflect the differences between the property in a modern lettable state and that as provided by the

landlord. In this instance the tribunal made a deduction of **£300.00 (50%)** to reflect the different terms of the tenancy, the lack of modernisation, lack of carpets, curtains and white goods that would normally be present in an open market letting, and adjusting the rent for a factor of 20% to reflect the scarcity of properties in the Greater London Area. This left the tribunal with a fair rent of **£300.00 per week**.

18. The tribunal was then required to apply the statutory formula to the existing registered rent. The calculation for this was appended to the decision form and produced a fair rent of **£179.00 per week**.
19. This tribunal must register which ever of the two rents produced in 17 and 18 above is the lower. In this case the lowest rent is **£179.00 per week. This was therefore the sum that was registered by the tribunal as the registered rent. The effective date for the registration was 14 April 2023, and this was noted on the decision form.**
20. In many cases where the landlord is a social landlord and the full rent is not being charged when the application for a Registered Rent is made, as explained above, the tribunal must disregard that fact, and start by using the registered rent which in this case was some £24.00 per week more than the rent being paid. In addition as already noted, the tribunal is unable to consider the financial circumstances of the tenant/landlord in this matter and this is between the landlord and tenant.

Name: Ms. A. Hamilton-Farey
Date 29 June 2023.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking