



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

Case Reference : **LON/00AN/F77/2023/0169
P:PAPERREMOTE**

Property : **Upper Floor 48 Mirabel Road London
SW6 7EH**

Applicant : **Mrs Lynn Rank**

Respondent : **Mr Peter Clive Tallboy**

Date of Application : **22 May 2023**

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

Tribunal : **Mrs E Flint FRICS**

**Date and venue of
Hearing** : **12 September 2023
10 Alfred Place London WC1E 7LR**

DECISION

This has been a hearing on the papers which has been consented to by the parties. A face to face hearing was not held because it was not practicable, no-one requested the same. The documents that we were referred to were in an electronic bundle the contents of which we have recorded.

The registered rent with effect from 12 September 2023 is £768 per month.

Background

1. On 17 February 2023 the landlord applied to the rent officer for registration of a fair rent of £858 per month for the above property.
2. The tenant has been in occupation of the premises since April 1979. However, the rent had not previously been registered by the rent officer.
3. On 17 April 2023, the rent officer registered a fair rent of £763 per month with effect from the same date.
4. On 22 May 2023 the landlord objected to the registered rent.
5. The tribunal issued Directions on 22 June 2023. The landlord and the tenant made written representations which were copied to the other party.

The Evidence

6. The landlord provided a brief description of the property which comprises three rooms, kitchen, bathroom/wc and shower room/wc on the first and second floors of a three storey terrace house built c1900. He described it as in average condition. He did not provide details of any rental evidence in support of his objection.
7. The tenant stated that she had made the rooms self-contained, rewired, fitted the kitchen, provided a shower room/wc on the first floor, gas central heating, double glazing in the kitchen, bathroom/wc and shower room/wc and insulated the loft. The plasterwork in the flat was in poor condition where it had not been made good following a leak. The remaining windows were the original single glazed sash windows which were draughty. The external decorations were in poor condition. All the electrical appliances, carpets curtains and white goods were the tenant's.
8. The tenant did not object to the rent registered by the rent officer but was of the opinion that the landlord should carry out the outstanding repairs.

The Law

9. When determining a fair rent the tribunal, in accordance with section 70 of the Rent Act 1977, must have regard to all the circumstances including the age, location and state of repair of the property. It also must disregard the effect of any relevant tenant's improvements and the effect of any disrepair or any other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property. The Tribunal is unable to take into account the tenant's personal circumstances when assessing the fair rent.

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 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 to that of a regulated tenancy, and

That for the purposes of determining the market rent, assured tenancy market rents are usually appropriate comparables; adjusted as necessary to reflect any relevant differences between the comparables and the subject property.

Valuation

11. 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 and on the terms that is considered usual for such an open market letting. As neither party had provided any comparable rental evidence I relied on my own general knowledge of rental values in Fulham and concluded that the likely market rent for the property would be £2400 per month.
12. However, it was first necessary to adjust the hypothetical rent of £2400 per month to allow for the differences between the terms and condition considered usual for such a letting and the condition of the actual property at the valuation date, ignoring any tenant's improvements, (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). I determined that the hypothetical rent should be reduced by £1200 to reflect the difference in the terms of the tenancy and the condition of the property, the lack of carpets, curtains and white goods which are usually provided on the open market. I deducted a further 10% to reflect the lack of self-containment
13. This leaves an adjusted market rent for the subject property of £960 per month. I am of the opinion that there is substantial scarcity for similar properties in Greater London and therefore made a deduction of 20% from the adjusted market rent to reflect this element. The uncapped fair rent is £768 per month.

Decision

19. Accordingly, the sum of £768 per month will be registered as the fair rent with effect from 12 September 2023 being the date of my decision.

Chairman: Evelyn Flint

Dated: 12 September 2023

ANNEX - RIGHTS OF APPEAL

- i. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- ii. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- iii. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- iv. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal which must be on a point of law, and state the result the party making the application is seeking.