



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

Case Reference : **LON/00AJ/F77/2023/0157
P:PAPERREMOTE**

Property : **77 South Ealing Road London W5
4QR**

Applicant : **Ms Fibrounia Dawood**

Respondent : **Messrs A & M Knap**

Date of Application : **26 April 2023**

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

Tribunal : **Mrs E Flint FRICS
Mr J Francis QPM**

**Date and venue of
Hearing** : **18 December 2023
10 Alfred Place London WC1E 7LR**

DECISION

The registered rent with effect from 18 December 2023 is £800 per month.

Background

1. On 8 February 2023 the landlord applied to the rent officer for registration of a fair rent of £1105 per month for the above property.
2. The registered rent at the date of the application was £875 per month which had been registered by the rent officer on 2 February 2021 with effect from the same date.
3. On 28 March 2023, the rent officer registered a fair rent of £897 per month with effect from the same date.
4. On 26 April 2023 the landlord objected to the registered rent.
5. The tribunal issued Directions on 9 June 2023. The landlord and the tenant made written representations which were copied to the other party.

The Inspection

6. The Tribunal inspected the property on the morning of 28 August 2023 in the presence of the tenant. The property is a ground floor flat in a converted two storey end terrace house c1900. It is situated on a busy main road, a bus route and opposite a local parade of shops.
7. Externally the house is in poor condition. Both the walls and roof require attention. There are areas where the pointing is almost non-existent, cracks in the brickwork and poor filling around the outlet from the gas boiler.
8. The accommodation comprises three rooms, kitchenette and bathroom/wc. The windows are Upvc double glazed units and there is gas fired boiler central heating.
9. The front room has a non-functioning gas fire, rusty radiator, surface mounted wiring and evidence of water penetration. The middle room had an extensive area of damp to the left of the window and cracks in the cornice. The consumer unit, electricity meter and a number of capped off gas pipes were situated in the open area under the stairs. There is extensive damp in the back addition room which leads directly into the kitchenette. The kitchenette, has a single drainer sink unit on an old, poor quality base. There is damp under the sink unit, the walls have tiling above the sink unit. A door leads directly into a very cramped and dated bathroom/wc where there was evidence of damp and rotten plaster.

The Evidence

10. The landlord gave a brief description of the property which he described as in average condition. He referred to a letting of the flat above at £1200 per month which he said provided similar

accommodation and two other flats let at £1100 and £1200 per month which he stated were similar.

11. The tenant stated that the landlord had provided a new boiler a few years ago. There was mould in the kitchen, bathroom and one of the living rooms. The plasterwork in the flat was in poor condition. All the electrical appliances, carpets curtains and white goods were the tenant's.

The Law

12. 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.
13. 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

14. 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. It relied on the brief details provided by the landlord its own general knowledge of rental values Ealing and concluded that the likely market rent for the property would be £1,600 per month.
15. However, it was first necessary to adjust the hypothetical rent of £1600 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). The Tribunal determined that the hypothetical rent should be reduced by £600 to reflect the

difference in the terms of the tenancy, the condition of the property, the lack of any amenities or storage in the kitchenette apart from those provided by the tenant, the layout whereby the front room was accessed via the rear room in the main section of the house, the lack of carpets, curtains and white goods which are usually provided on the open market.

16. This leaves an adjusted market rent for the subject property of £1000 per month. The tribunal was of the opinion that there was 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 tribunal's uncapped fair rent is £800 per month.

Decision

17. The uncapped fair rent initially determined by the tribunal, for the purposes of section 70, is below the maximum fair rent of £1161 per month calculated under the Rent Acts (Maximum Fair Rent) Order 1999.
19. Accordingly, the sum of £800 per month will be registered as the fair rent with effect from 18 December 2023 being the date of the tribunal's decision.

Chairman: Evelyn Flint

Dated: 18 December 2023

ANNEX - RIGHTS OF APPEAL

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

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. The application should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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.

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.

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 and state the result the party making the application is seeking. Please note that if you are seeking permission to appeal against a decision made by the Tribunal under the Rent Act 1977, the Housing Act 1988 or the Local Government and Housing Act 1989, this can only be on a point of law.

If the First-tier Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

