



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

**Case reference** : **LON/00AM/F77/2023/0302**

**Property** : **146 Hertford Road London N1 4LP**

**Landlord** : **The Englefield Estate Trust**

**Tenant** : **Mrs A Flawn**

**Type of Application** : **Rent Act 1977**

**The Tribunal** : **Judge H Carr  
Mrs A Flynn MRICS**

**Date of determination** : **24<sup>th</sup> January 2024**

**Date of full reasons** : **29<sup>th</sup> January 2024**

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**DECISION**

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## Decision

1. The fair rent determined by the Tribunal is £1371.50 per calendar month. The effective date is 24<sup>th</sup> January 2024.

## Background

2. The property is a terraced house on the ground and first floor with central heating comprising five rooms a kitchen, bathroom/WC and a garden to the front and rear.
3. The rent was previously registered on 27<sup>th</sup> July 2021 (effective from that date) at £1020.50 per calendar month.
4. The landlord applied to the Rent Officer for a fresh registration of the rent on 20<sup>th</sup> June 2023 and a rent of £1308.50 per calendar month, was registered on 15<sup>th</sup> August 2023, effective from that date. It may be noted that this was a capped rent and that rent officer noted that the uncapped rent was £2295.00 per calendar month. The landlord had in its application suggested a rent of £1142.96 pcm.
5. The tenant appealed against the rent registration on 31<sup>st</sup> August 2023 The basis for the appeal was that the increase in rent was unjustified. The tenant provided photographs.
6. The tenant requested a hearing. She attended the hearing The landlord's representative was Mr Edward Benyon.

## The Hearing

7. Mrs Flawn gave evidence as follows:
  - a. The rent set by the rent officer was higher than the rent requested by the landlord.
  - b. The tenant had installed the kitchen which had been only a shell with a kitchen sink when she had moved into the property. She had also installed the cupboard under the stairs as the property lacked storage.
  - c. She provided white goods, carpeting and other flooring.
  - d. The landlord had installed heating.
  - e. The tenant said that there were cracks in the downstairs reception room ceiling.
  - f. She provided no comparables but drew the attention of the tribunal to the lower rents paid by the tenants of the local authority properties opposite.
8. Mr Benyon gave evidence as follows:
9.
  - a. The landlord's practice is to follow the rent set by the rent officer.

- b. The landlord has a maintenance service which responds quickly to concerns.
- c. The landlord fulfils its s.11 obligations.

### **Inspection**

- 10. The Tribunal inspected the property on 24<sup>th</sup> January 2024 in the presence of the tenant and a representative of the landlord and its maintenance operative. In general the house was in good condition externally, other than the single glazed original windows and internally was in adequate condition.
- 11. The tribunal saw evidence of slight damp and noted the poor quality of the windows,
- 12. There is no provision of carpets, curtains and white goods as would be expected in a modern market rent property.

### **The law**

- 13. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70:
  - (1) has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
  - (2) disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
  - (3) assumes (as required by s.70(2)) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words that the effect of any such 'scarcity' on rental values is not reflected in the fair rent of the subject property.
- 14. 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 section 70 means
  - (a) that ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' 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).
 Thus once the market rent for the property has been determined by the exercise in (2) above that rent must be adjusted, where necessary, for any scarcity.

15. The Rent Acts (Maximum Fair Rent) Order 1999 (SI 1999/6) is applicable.

**Determination**

The Tribunal determined, having regard to comparable properties available for letting at market rents in the area, that the open market rent for the property in good condition was £3,400 per calendar month which matched the rent officer's determination.

16. It considered that further deductions of 25% (£850) should be made for the lack of double glazing. This 25% deduction also takes into account work undertaken at the tenant's expense in relation to the kitchen and the evidence of damp.
17. The Tribunal also determined that there was scarcity in the area and made a further deduction of 20% (£ 510).
18. This gave an overall deduction £1360 from the open market rent to arrive at a rounded fair rent of £2040 per calendar month. This is the uncapped rent. However, because of the applicability of the capping provisions the rent was determined at £1317.50.