



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

Case Reference : **LON/00AZ/F77/2023/0335**

Property : **33A Holdenby Road, London, SE4
2DA**

Tenant : **Mr Christopher & Mrs Murtagh**

Landlord : **Mountview Estates Plc**

Date of Objection : **2 October 2023**

Type of Application : **Section 70, Rent Act 1977**

Tribunal : **Judge B MacQueen
Mr A Parkinson, MRICS**

Decision : **22 January 2024**

DECISION

The sum of £ 228.00 per week will be registered as the fair rent with effect from 22 January 2024, being the date the Tribunal made the Decision.

REASONS

Background

1. Following an objection from the Tenant to the determination of a fair rent by the Rent Officer, the Tribunal has made a determination under the provisions of the Rent Act 1977.
2. On 17 July 2023 the Landlord made an application to register the rent of the Property at £434 per week.
3. On 12 September 2023 the Rent Officer registered a fair rent of £226 per week with effect from 10 October 2023.
4. This was in lieu of the previous registered rent of £179 per week from 10 October 2021.
5. The Tenant objected on 2 October 2023, and the matter was referred to the First-tier Tribunal, Property Chamber.
6. The Tribunal issued directions on 8 November 2023. Parties were requested to complete a pro-forma supplying details of the accommodation on a room-by-room basis, the features of the property (central heating, white goods, double glazing, carpets and curtains) and other property attributes and any further comments that they may wish the Tribunal to take into consideration. This could include any repairs and improvements that have been made, any comments on the condition of the Property and rentals of similar properties – should they wish to rely on these.

The Property

7. The Tribunal carried out an inspection of the property on 22 January 2024. Mr Christopher Murtagh was present but the landlord was not present or represented.
8. The Property is a 1st floor self-contained flat of brick construction with a tiled roof.
9. The Tenants installed the central heating and hot water cylinder and the curtains, carpets and white goods that are at the Property. The Landlord installed double glazing in 2021.
10. The Property comprised five rooms, 1 kitchen, 1 bathroom/wc. There was also a garden which is shared with the ground floor flat (33 Holdenby Road).

11. The room that the Tenants used as the kitchen does not have a sink. There is a sink in the room that the Tenants described as the utility room. This sink was installed by the Tenants. There are no worksurfaces, or kitchen units provided by the Landlord. Instead, the Tenants use an old Formica top table and a microwave that is on top of two large cardboard boxes.
12. In the bathroom there was a super steel bath and bath shower mixer tap that had been installed by the Tenants. The Tenants had also replaced an old cast iron high level W.C cistern with a new low level slim panel cistern. There was no handbasin in the bathroom and the Tenants have to use the sink that is in the utility room.
13. In one room there was a hole in the ceiling and the decoration throughout the property was tired.

The law

14. The relevant law is set out in section 70 of the 1977 Act and the Rent Acts (Maximum Fair Rent) Order 1999. The Tribunal is to have regard to all the circumstances (other than personal circumstances) and in particular to the age, character, locality and state of repair of the Property. The Tribunal is to disregard the effect on the rental value of any improvements carried out by the tenant (other than in pursuance of the terms of the tenancy). The Tribunal is also required (by s.70(2)) to assume that the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent; in effect, if such scarcity exists, the Tribunal will adjust the rental figure so that the fair rent is not affected by it.
15. 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 confirmed that for the purposes of determining the market rent (before making any necessary adjustments), open market assured tenancy rents are usually appropriate comparables.
16. By section 72 of the 1977 Act, if the rent is determined by the Tribunal, the registration of the rent takes effect from the date the Tribunal makes its decision.

Representations - Tenants

17. The Tribunal considered the written submissions provided by the Tenants.

18. In their letter dated 2 December 2023 the Tenants requested an inspection and set out their representations. The Tenants confirmed that they had lived at the Property for over 36 years and there had been no internal modernisation improvements during that time, apart from an electrical consumer unit upgrade, electrically wired smoke and carbon monoxide detectors installed and electrical installation safety inspections.
19. The Tenants also stated that the Landlord had completed only essential repairs, which included installation of double glazing in June 2021 because the old windows had become so rotten that most could not be opened.
20. The Tenants stated that the most important basis of their objection to the newly registered rent was that the Property had no kitchen units or worktops and there is no sink in the room that the Tenants use as a kitchen.
21. The Tenants explained that they had installed the central heating system at their own expense in 1988 by installing a boiler, 11 radiators and all the pipework. The Tenants also installed a new Baxi Solo 3 Gas boiler in 2004 and replaced 8 of the conventional radiators with new convector radiators, again at their own expense.
22. Again at their own expense, the Tenants installed a new hot water cylinder in 2002 to replace an old galvanised steel hot water tank that the Tenants believed was approximately 70 years old.
23. The Tenants submit that a weekly rent of £150.00 per week would be more in line with the unmodernised condition of the Property, the lack of a kitchen and lack of heating provided by the landlord.

Representations – Landlord

24. No representations were received from the Landlord.

Determination

25. First, the Tribunal needs to determine the rent which the Landlord could reasonably expect to obtain for the Property in the open market if it were let today in the condition and on the terms now usual for open market lettings.
26. Neither party has supplied comparables. The Rent Officer determined the uncapped rent at £ 375 per week. The tribunal is of the opinion that, given the attractive location of this Property, this valuation is low. Using its knowledge and experience the Tribunal estimated that the open market rent is in the region of £500 per week.

27. The Tribunal then needs to adjust this open market rent to reflect that the Landlord has not provided carpets, curtains, kitchen units and white goods, and the tenants provision of the central heating and hot water, bath and replacement sink and cistern.
28. For this the Tribunal has made an adjustment of £200 per week to arrive at a rent before consideration of scarcity of £300 per week.
29. The Tribunal then considered whether there should be an adjustment for scarcity (as referred to in paragraph 14 (above)) and decided that there should be an adjustment of 20%. This results in a rent of £240 per week.
30. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is the lower of either the capped fair rent, details of which are attached to this Decision, or the fair rent decided by the Tribunal, as set out above.
31. The capped fair rent is £228 per week (see attached Notice). This is lower than the rent assessed by the Tribunal as set out above and therefore the rent of **£228 per week** is to be registered.

Name: Judge B MacQueen

Date: 22 January 2024

APPEAL PROVISIONS

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 on a point of law 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 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.

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