



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

Case Reference : **LON/00AJ/F77/2023/0397**

Property : **2 Byron Court Boston Road London
W7 2AY**

Applicant : **BPT (Bradford Property Trust)
Limited**

Representative : **Grainger plc**

Respondent : **Mr Leslie Huxley**

Representative : **Ms Jane Eleftheriou**

Date of Application : **7 November 2023**

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

Tribunal : **Mrs E Flint FRICS
Mr O N Miller BSc**

**Date and venue of
Hearing** : **12 February 2024
10 Alfred Place London WC1E 7LR**

DECISION

The registered rent with effect from 12 February 2024 is £2,960 per quarter.

Background

1. On 14 July 2023 the landlord applied to the rent officer for registration of a fair rent of £3,183.28 per quarter for the above property.
2. The registered rent at the date of the application was £2,650 per quarter which had been registered by the rent officer on 16 August 2021 with effect from 11 October 2021.
3. On 18 October 2023, the rent officer registered a fair rent of £2,790 per quarter with effect from the same date.
4. On 7 November 2023 the landlord objected to the registered rent.
5. The tribunal issued Directions on 5 December 2023. The tenant made written representations which were copied to the landlord, no representations were made by or on behalf of the landlord.

The Inspection

6. The Tribunal inspected the property on the afternoon of 12 February 2024 in the presence of the tenant's son. The property is a ground floor flat in a three storey purpose built block. It is situated on a busy main road, bus route and within quarter of a mile of Boston Manor station. Permit parking is available on the main road.
7. Externally the block appears in fair condition. There are four car parking spaces to the rear of the block available on a first come first served basis. A grassed area separates the front of the block from the footpath.
8. The accommodation comprises three rooms, kitchen and bathroom/wc. The windows are Upvc double glazed units and there is gas fired boiler central heating. There is original herringbone parquet flooring throughout, except for the kitchen and bathroom. There are areas of the parquet in poor condition.
9. The plumbing for the central heating is unsightly and in the rear double bedroom has been run through a cupboard at high level then down the wall. The kitchen is unmodernised with worn out units, the tenant has replaced the sink unit and provided a worktop. The bathroom is dated, the wc was a particularly low model.
10. There was an area of black mould on the external flank wall in the front bedroom. There was no obvious sign of disrepair on the external face of this wall.

The Evidence

11. The tenant stated that the landlord had installed double glazing approximately twenty years ago and central heating seven years ago. The bedrooms both had two external walls, were difficult to heat resulting in black mould on the walls.
12. The kitchen units were those in situ when he had moved in in 1972. He had replaced the sink unit and worktop. The bath and wc cistern had been replaced about ten years ago. However, damage from a leak had not been made good. He had installed fitted wardrobes and the electrical appliances, carpets curtains and white goods were the tenant's.
13. There were four car spaces to the rear of the block to serve twenty flats. None were allocated, it was a first come basis.

The Law

14. 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.
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 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

16. 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 Hanwell and concluded that the likely market rent for the property would be £5,700 per quarter.

17. However, it was first necessary to adjust the hypothetical rent of £5,700 per quarter 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 £2,000 to reflect the difference in the terms of the tenancy, the condition of the property, the unmodernised kitchen and bathroom and the lack of carpets, curtains and white goods which are usually provided on the open market.
18. This leaves an adjusted market rent for the subject property of £3,700 per quarter. 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 £2,960 per quarter.

Decision

19. The uncapped fair rent initially determined by the tribunal, for the purposes of section 70, is below the maximum fair rent of £3,400 per quarter calculated under the Rent Acts (Maximum Fair Rent) Order 1999.
19. Accordingly, the sum of £2,960 per quarter will be registered as the fair rent with effect from 12 February 2024 being the date of the tribunal's decision.

Chairman: Evelyn Flint

Dated: 14 February 2024

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).

