

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

**Case Reference** : LON/00AW/F77/2023/0375

**Hearing Type** : By Way of Written Representation followed by  
Inspection of the Property

**Property** : Flat 8, 61 Queens Gate, London, SW7 5JP

**Applicant** : Miss Nadia Curlin (Tenant)

**Respondent** : Kensington Avenue Ltd (Landlord)

**Type of Application** : Referral of a Registration of Fair Rent under the  
Rent Act 1977

**Tribunal Members** : Mr John A Naylor FRICS, FIRPM  
Valuer Chairman

: Mr A Ring  
Lay Member

**Date of Decision** : 4th March 2024

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**REASONS**

## **REASONS**

### **Background**

1. The landlord made an RR1 application for rent registration of a fair rent to the Rent Officer. The previous rent was determined by the Rent Officer at £1,210 per calendar month effective from 24 April 2015.
2. The Valuation Officer subsequently determined a fair rent of £1,235 per calendar month effective from 19 June 2023.
3. On behalf of the landlord, Bingham and Elliot wrote a letter of objection to the Valuation Office in an email dated 4 July 2023. As a result of this, the Valuation Office wrote to the Tribunal seeking a review and determination of rent for the above-named property by way of email dated 6th December 2024
4. On 7 December 2023, the Tribunal issued Directions to the parties requiring them to produce any evidence on which they wished to rely in support of their respective cases, including by use of a reply form. The matter was set down for Determination on papers unless either party requested a Hearing.
5. Oliver Fisher on behalf of the tenant, Miss Curlin, confirmed that they did not require a Hearing, but they did require an inspection, Bingham and Elliot, on behalf of the Landlord, advised that they required neither inspection nor a Hearing to take place.
6. As a result, the matter was set down to be heard on the basis of the papers and submissions provided but subject to an inspection of the property by the Tribunal.
7. In a letter dated 23 February 2024, the Tribunal wrote to the parties advising that an inspection of the property would take place on 4 March 2024 between the hours of 11.30am and 2.30pm. In addition to the above, both parties made further submissions within their replies. Bingham and Elliot, on behalf of the landlord, confirmed that the property was located on the fourth floor with lift and comprised living room, kitchen, bedroom and bathroom.
8. They submitted that the property was not centrally heated but was double glazed and that carpets, curtains and white goods were provided by the landlord. They also advised that the property benefitted from a Parking Permit.

9. On behalf of the tenant, Oliver Fisher confirmed the property was on the fourth floor with lift and comprised a living room, bedroom, kitchen and bathroom/WC.
10. Oliver Fisher confirmed that the property did not have central heating but also advised that the property did not have double glazing and that the white goods had, in fact, been provided by the tenant, contrary to the submissions of the landlord. They also advised that there was no Parking Permit.
11. In respect of disrepairs, they referred to cracks throughout the property, defects to the electrics, poorly fitted and draughty windows that also allow some water penetration , antiquated kitchen and bathroom areas and damp .
12. By way of separate submission, Oliver Fisher for the tenant also pointed out that furniture within the property was provided 49 years ago and that in the past the subject property has been the subject of a Repairs Notice in December 2019.
13. On behalf of the tenant, Oliver Fisher submitted that the landlord did not undertake any improvements.
14. By way of comparable evidence, the tenant has provided no comparable evidence on the reply form but in submissions have provided two schedules of comparable evidence detailing the rents , brief details of accommodation , floor and in some cases whether or not the flats had central heating . All rents detailed are registered rents. In a letter dated the 11<sup>th</sup> May 2023 they suggest that the registered rent of the property should be “ no more than ~~“”~~ £1400 per month
15. On behalf of the landlord, Bingham and Elliot submitted that there has been extensive external redecoration to the property and the common parts and that these have all been paid for by the landlord. They submitted that rents had increased considerably since April 2015 but that this had not been reflected in the Rent Officer’s increase in the fair rent, pointing out that even the tenant’s solicitors had suggested that the rent should be no more than £1,400 per calendar month. In addition, they pointed out in the original RR1 Application that the Landlord pays a services charge in respect of the above property and provided heads of expenditure with costings for the years 2022 to 2023 and 2023 to 2024.

16. The landlord provided a schedule of one bedroom flats in Queens Gate that have been let recently giving floor area, brief details of accommodation, floor and date of letting and ranging between £3,445 per calendar month to £4,312 per calendar month.
17. They submitted that the fair (Registered) rent for the subject flat should be £2,492 per calendar month.

### **The Inspection**

18. The Tribunal inspected the property at approximately 12.00pm on 4 March 2024.

### **The Property**

19. The property was found to comprise a small one bedroomed flat on the fourth floor of the building. The lift was found to only go to the third floor, but in practice, two flights of stairs below the subject unit.
20. The accommodation comprised a lounge, bedroom, kitchenette and bathroom/WC.
21. The property was found to be in a poor and shabby condition. Windows are single glazed and fit loosely in the frame. Some sash cords were broken. The electrical wiring was surface mounted. The property was found to have no central heating. The bathroom was antiquated with an avocado suite and an intrusive boiler. The only exception being the bath which was nevertheless fairly badly worn.
22. In the kitchen there were inadequate work surfaces, only one wall unit and tiles were coming off the wall.

### **The Law**

23. When determining a fair rent, the Tribunal, in accordance with the Rent Act 1977, Section 70, had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property. Section 70 is set out in the Appendix below.

24. In *Spath Holme Limited -v- Chairman of The Greater Manchester, etc. Tribunal* (1995) 28 HLR 107 and *Curtis -v- London Rent Assessment Tribunal* (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 – other than as to rent – to that of the regulated tenancy) and that for the purpose 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).

## Valuation

25. The Tribunal must firstly determine the market rent for a property of this size, in this location and in its current condition. It must also disregard the personal circumstances of either party. The Tribunal notes the comments made by both the landlord and the tenant in their submissions and takes these factors into consideration. Using its own general knowledge of the Greater London property market, in particular the property market in the immediate locality of the subject property, the Tribunal considers that the market rent for a property of this size, in this location, in average condition with usual white goods, carpets, curtains and decorated to a good condition would be £2,600.00 per calendar month.

26. Taking into account both the landlord’s agent’s comments and those of the tenant and her representative, the Tribunal is of the opinion that the landlord does not maintain the property and based on their own inspection of the property, that the property requires considerable modernisation and repair to bring it up to a standard where it could be placed on the open market at average rents.

27. The Tribunal, therefore, makes deductions from the market rent of £2,600.00 per month to reflect a number of issues within the property.

28. These can be detailed as follows:

Market Rent:	£2,600.00 per month
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•	Less:
(1) Partial stair access to the property	
(2) A small and unmodernised kitchen	
(3) Unmodernised bathroom	
(4) Lack of central heating	
(5) Lack of double glazing	
(6) Condition of electric installation	
(7) Draughty windows	
(8) General disrepair	
Less 35%	£910.00 per month
Adjusted rent	<b>£1,690.00 per month</b>

29. The Tribunal found that there was substantial scarcity in the locality of Greater London having taken judicial notice of long Housing Association and Local Authority waiting lists in Greater London. It, therefore, made deduction in respect of scarcity of 20% from the adjusted market rent to reflect this element.

Adjustment for scarcity 20%	£ 338.00 per month
Final rent determination	<b>£ 1,352.00 per month</b>

30. The Tribunal is then required to apply The Rent Act (Maximum Fair Rent) Order 1999. The calculation was included on the Decision Sheet and produced a maximum fair rent of £1,847.00 per calendar month.

31. The Tribunal must determine the lower of the adjusted market rent, or maximum fair rent, as the fair rent for the property. In this instance, the maximum fair rent produces a higher figure and the Tribunal, therefore, determined the rent at £1352.00 per calendar month for this property, with effect from 4th March 2024, being the date of the Tribunal Decision.

**Name:** Mr John A Naylor FRICS FIRPM

**Date:** 16 April 2024

### **ANNEX – RIGHTS OF APPEAL**

The Tribunal is required to set out rights of appeal against its Decision by virtue of the Rule 36(2)(c) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and these are set out below:

If a party wishes to appeal against 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 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.

**APPENDIX**

**Rent Act 1977**

**Section 70 Determination of Fair Rent**

- (1) In determining, for the purpose of this part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwellinghouse, regard shall be had to all the circumstances (other than personal circumstances) and, in particular, to –
  - (a) the age, character, locality and state of repair of the dwellinghouse...F1
  - (b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture (F2 and)
  - (c) (F2(c)) any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy)
  
- (2) For the purpose of the determination, it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.
  
- (3) There shall be disregarded:
  - (a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;
  - (b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy; by the tenant under the regulated tenancy or any predecessor in title of his;
  - (c) (d).....F3
  - (d) If any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy



or any predecessor in title of theirs or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with them, or any sub-tenant of theirs.

(e) F4 [(3a) in any case where under Part 1 of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay Council Tax in respect of a hereditament (“*the relevant hereditament*”) of which the dwelling-house forms part, regard shall also be had to the amount of Council Tax which, as at the date on which the application to the rent officer was made, was set by the billing authority –

(a) for the financial year in which that application was made, and

(b) for the category of dwelling within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of Council Tax payable shall be disregarded.

(3b) In subsection (3a) above –

“*hereditament*” means a dwelling within the meaning of Part 1 of the Local Government Finance Act 1992.

“*billing authority*” has the same meaning as in that part of the Act, and

“*category of dwellings*” has the same meaning as in Section 30(1) and (2) of that Act.]

(4) In this section “*improvement*” includes the replacement of any fixture or fitting.

[F5 (4a) in this section “*premium*” has the same meaning as in part IX of this Act and “*sum in the nature of a premium*” means –

(a) any such loan as is mentioned in Section 119 or 120 of this Act,

(b) any such excess over the reasonable price of furniture as is mentioned in Section 123 of this Act, and

- (c) Any such advance payment or rent as is mentioned in Section 126 of this Act.]

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