



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

Case Reference : **LON/00BK/F77/2024/0016**

Property : **5 Charing Cross Mansions, 26 Charing
Cross Road, London WC2H 0DG**

Tenant : **Mr Lawrence Blackmore**

Landlord : **Gascoyne Holdings Ltd**

Date of Objection : **26 September 2023**

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

Tribunal : **Mr D Jagger MRICS**

Date of Reasons : **29 April 2024**

DECISION

The sum of £13,920 per calendar year will be registered as the fair rent with effect from 26 March 2024, being the date the Tribunal made the original Decision.

This decision was notified to the parties following the decision. On the 19 April 2024 an amended decision was provided to the parties confirming the service charge element. On the 18 April 2024 the Tribunal received a request from the Tenant to provide extended reasons. The Tribunal have therefore set out below full reasons for their decision prior to any application either party wishes to pursue for permission to appeal.

Reasons

Background

On 11 September 2023 the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £14,874.00 per annum (inclusive of a service charge of £1,462.84 per annum)

The rent payable at the time of the application was £12,395.00 per annum, inclusive of service charge of £1,333.63 pa effective from 18 November 2021.

On 18 November 2023 the Rent Officer registered a fair rent of £14,040 per annum , inclusive of a service charge of £1,462.84 effective from the 18 November 2023. The rent increase imposed by the Rent Officer had not been “capped” or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 (the Order).

By a letter dated 26 September 2023 from Mr Blackmore, the Tenant objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal. A further letter was received from the Landlord on the 17 November 2023 also objecting to the rent determined by the Rent Officer.

The law

When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, 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 (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant, on the rental value of the property. Section 70(2) of the Rent Act 1977 imposes on the Tribunal an assumption that the number of persons seeking to become tenants of similar dwelling house 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. This is commonly called ‘scarcity’.

In *Spath Holme Ltd v Chairman of the Greater Manchester Council (1995) 28 HLR 107* and *Curtis v London Rent Assessment Tribunal [1999] QB 92* the Court of Appeal emphasised

- (a) 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

- (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).

The Rent Acts (Maximum Fair Rent) Order 1999 places a “cap” on the permissible amount of the increase of a fair rent between one registration and the next, by reference to the amount of the increase in the United Kingdom Index of Retail Prices between the dates of the two registrations. Where the cap applies the Rent Officer and the Tribunal is prevented from increasing the amount of the fair rent that it registers beyond the maximum fair rent calculated in accordance with the provisions of the Order and the mathematical formula set out in the Order.

By article 2(7) of the 1999 Order the capping provisions do not apply *“in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.”*

Hearing and Inspection

The parties did not request the Tribunal to inspect the property and the Tribunal were satisfied this was not required and relied on information provided by the parties together with its expert knowledge.

The property is a self-contained second floor flat located over commercial premises in Prime Central London close to Leicester Square.

The accommodation comprises: living room kitchen, two bedrooms, bathroom and lavatory.

Terms of the tenancy

The Tribunal issued Directions on the 26 January 2024 which set out a timescale for the proceedings. The Rent Register states the agreement commenced pre 1985 and the Tenant states he has been a tenant for more than 60 years. No agreement was submitted. It is assumed such an agreement made the landlord responsible for structural repairs and external decorations. The tenant is responsible for internal decorations. It is assumed the property was let unfurnished.

Condition of the Property

The property is in need of general refurbishment and modernisation. The windows are single glazed, poorly fittings and require redecoration. The bathroom and kitchen fittings are dated. There is no central heating and insulation qualities are considered poor.

Written Evidence

The Tribunal had copies of the Valuation Office Agency correspondence including the rent registers effective from 18 November 2021 and 18 November 2023 together with the calculations for the most recent registration.

The Tenant provided limited correspondence and the Landlord provided a schedule of rents achieved in the building.

Valuation

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 that is considered usual for such an open market letting.

Based upon the evidence provided by the Landlord together with its expert knowledge of the area, the Tribunal consider that the subject property, if finished to a reasonable standard would be likely to attract a rent let on an assured shorthold tenancy, of £34,800 per annum. (£2,900 month)

Next, the Tribunal needs to **adjust that hypothetical rent of £34,800 per annum** to allow for the differences between the terms of this tenancy, the unmodernised condition, no central heating, the lack of white goods, carpets and curtains, and the tenants decorating responsibilities (disregarding the effect of tenant's improvements and any disrepair or other defect attributable to the tenant).

The Tribunal has considered very carefully the information prepared by the parties.

Using its own expertise, the Tribunal considers that a deductions of 50% should be applied in order to take into account the terms of the tenancy, the condition of the property and the lack of carpets, curtains and white goods. This provides a deduction of £17,400 per annum from the hypothetical rent. This reduces the figure to £17,400 per annum.

It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the Tribunal's estimate of the amount by which the rent would need to be reduced to attract a tenant.

Scarcity

Thirdly, the Tribunal then went on to consider whether a deduction falls to be made to reflect scarcity within the meaning of section 70(2) of the 1977 Act. The tribunal followed the decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee*, in which it was held that scarcity over a wide area should be considered rather than scarcity in relation to a particular locality.

In the Tribunals opinion there should be a deduction of 20% for scarcity as it is considered demand outweighs supply of rented properties in the area. This provides a figure of £3,480 per annum and therefore reduces the rent to £13,920 per annum

Conclusion

The capping provisions of the Rent Acts (Maximum Fair Rent) Order do not apply and therefore the above figure applies.

Therefore, the fair rent to be registered is **£13,920 per annum**. In accordance with the statutory provisions, this takes effect from the **26 March 2024** being the date of the Tribunals decision.

Detailed calculations for the capped maximum fair rent are provided on the back of the decision form.

D Jagger MRICS Valuer Chair

28th April 2024

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpslondon@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.