



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

Case Reference : **LON/00AP/F77/2024/0067
P:PAPERREMOTE**

Property : **Flat58 Page High 4 Lymington
Avenue London N22 6JD**

Applicant : **Miss D Orgill**

Respondent : **Sanctuary Housing**

Date of Application : **18 December 2023**

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

Tribunal : **Mrs E Flint FRICS**

**Date and venue of
Hearing** : **17 April 2024
remote on the papers**

DECISION

This has been a hearing on the papers which has been consented to by the parties. A face to face hearing was not held because it was not practicable, no-one requested the same. The documents that I was referred to were in an electronic bundle the contents of which we have recorded.

The registered rent with effect from 17 April 2024 is £247 per week inclusive of £21.19 service charge.

Background

1. On 19 October 2023 the landlord applied to the rent officer for registration of a fair rent of £129.91 per week for the above property.
2. The registered rent at the date of the application was £172.50 inclusive of £26.56 service charge per week which had been registered by the rent officer on 20 November 2017 with effect from 5 December 2017.
3. On 27 November 2023, the rent officer registered a fair rent of £245.50 inclusive of £21.19 service charge per week with effect from the same date.
4. The tenant objected to the registered rent on 18 December 2023.
5. The tribunal issued Directions on 22 February 2024. No written representations were received from or on behalf of either the landlord or the tenant.
6. The tenant has been in occupation since 10 March 1988.
7. I have viewed the locality on streetview.

The Evidence

8. The accommodation which comprises three rooms, kitchen and bathroom/wc, is on fifth and sixth floors of a purpose built block close to all local amenities. The accommodation which is centrally heated comprises three rooms, kitchen, bathroom/wc.

The Law

9. 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.
10. 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

11. In the first instance I 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 considered usual for such an open market letting. As no evidence had been provided by either party I relied on my own general knowledge of rental values in N22 and concluded that the likely market rent for the property would be £380 per week.
12. However, it was first necessary to adjust the hypothetical rent of £380 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). I determined that the hypothetical rent should be reduced by £60 to reflect the difference in the terms of the tenancy, noting that the tenant has provided the white goods carpets and curtains which are usually provided by the landlord on the open market.
13. This leaves an adjusted market rent for the subject property of £320 per week. I am of the opinion that there is 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 uncapped fair rent is £256 per week.

Decision

14. The uncapped fair rent initially determined by me, for the purposes of section 70, is above the maximum fair rent of £247 per week calculated under the Rent Acts (Maximum Fair Rent) Order 1999. Therefore the rent will be capped under the provisions of the Order.
19. Accordingly, the sum of £247 per week will be registered as the fair rent with effect from 17 April 2024 being the date of my decision.

Chairman: Evelyn Flint

Dated: 17 April 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).

