



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

Case Reference : **LON/00AE/F77/2023/0307.**

Property : **1b Stanley Road, London NW2 4QH.**

Tenant : **Mr. D. and Mrs. A. O'Brien.**

Landlord : **Network Homes Limited.**

Date of Objection : **20 August 2023.**

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

Tribunal : **Aileen Hamilton-Farey.**

**Date of
Reasons** : **20 May 2024**

DECISION

The sum of £186.00 per week will be registered as the fair rent with effect from 20 May 2024 being the date the Tribunal made the Decision.

REASONS FOR THE DECISION

Background

1. Following an objection from the Tenant to the determination of a fair rent by the Rent Officer, the Tribunal has determined the rent payable under the provisions of the Rent Act 1977.

Inspection

2. The Tribunal did not inspect the property but considered this case on the basis of the papers provided by the parties.

Evidence

3. The tribunal had consideration of the submissions from the tenants, that the rent was unaffordable and that they had already received an increase in the rent in September. By a letter of 10 May 2024 the landlord explained that they had sought a rent of £136.15 per week instead of the rent passing of £119.43 and that the increase would be phased over two years and constituted a 7% increase, in line with Government Guidelines. They explained that the Consumer Prices Index for September 2023 was 10.1% to which they were entitled to add a further 1% but had not done so because of the Government capping formula.

Directions and Evidence

4. The tribunal issued directions on 14 March 2024 that required the parties to confirm the attributes of the property and provide details of any market letting rents that they wished the tribunal to take into account when making its determination. Both parties confirmed the size of the property but neither produced evidence of market lettings.

For the benefit of the parties it is important to note that the tribunal must consider rents from open market lettings when making a determination. These rents are what a willing tenant and landlord would agree when letting the property. However, those rents must then be adjusted to reflect the different terms of the tenancy between a secure (fair rent) tenancy and an assured shorthold (the usual tenancy for a market letting), and also that to achieve a full market rent a landlord in the open market would provide carpets, curtains, white goods, and up-to-date fixtures and fittings. Following these adjustments the Rent Act 1977 requires that the tribunal considers the deduction for 'scarcity', which is a deduction to reflect the supply and demand for property in the locality. For the purposes of the locality, the tribunal must consider a wide area, and in this respect Greater London is taken as a suitable area.

It is also important that especially the tenants realise that the rent set by the tribunal, may not be the rent payable where the landlord is a Registered Provider of Social Housing (as in this case), and that the Government place restrictions on the level of increase that might be applied by Registered Providers (in this case 7% per annum). Finally, the Rent Act states that any increase should be applied immediately and not phased, but in this case the landlord has decided to raise the rent by 7% in year 1 and 7% in year 2, prior to the next registration. The landlord may not increase the rent by any amount in excess of the registered rent as shown on the decision, but may charge less, as in this case. Finally, the tribunal wishes to point out that the starting point for any calculation under the Maximum Fair Rent Order is the current

registered rent (in this case that was £143.50 per week), even though that was not the amount being charged by the landlord.

Determination and Valuation

5. Without any comparable evidence from the parties the must use its own expert, general knowledge of rental values in the area, the tribunal consider that the open market rent for the property in a good marketable condition would be in the region of **£500 per week**. From this level of rent the tribunal has made adjustments in relation to the tenancy conditions, lack of modernisation and white goods, plus scarcity.

6. The full valuation is shown below:

		Per week.
Market Rent		£500.00
<i>Less</i>		
Terms of tenancy 5%	£ 25.00	
Lack of modernisation, white goods etc 10%	£ 47.50	<u>£427.50</u>
<i>Less scarcity of 20%</i>	£ 85.50	<u>£342.00</u>

7. The Tribunal determines that the adjusted (uncapped) market rent for the property would be **£342.00 per week**.

8. However, the tribunal must then carry out the calculation under the Rent Acts (Maximum Fair Rent) Order 1999, which is shown on the reverse of the decision. In accordance with the Order, the tribunal must register whichever of the rents is the lower. In this case the Order has produced a lower rent.

Decision

9. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was **£342.00 per week**. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at **£186.00 per week**. The calculation of the capped rent is shown on the decision form. In this case the lower rent of **£186.00 per week** is to be registered as the fair rent or this property. The rent is effective from today's date.

Chairman: Aileen Hamilton-Farey Date: 20 May 2024.