



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

Case Reference : **TR/LON/00AG/F77/2024/0148**

Hearing Type : **By Way of Written Representations**

Property : **Flat C (First Floor), 19 Camden Park Road, London,
NW1 9AX**

Applicant : **Carmen Vidal (Tenant)**

Respondent : **Valfina UK Ltd (Landlord)**

Type of Application : **Assessment of a Fair Rent - Section 70 of the Rent
Act 1977**

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

Date of Decision : **17 June 2024**

FULL REASONS

REASONS

Background

1. On 11th December 2023 the landlord sent an application for rent registration of a fair rent to the Rent Officer. The previous rent was determined by the Rent Officer on 21 February 2022 at a rent of £695.50 per month.
2. On 7 February 2024 the Rent Officer registered a fair rent of £858.00 per month effective from 21 February 2024.
3. By an email dated 20 February 2024 the tenant objected to the registered rent and as a result the Rent Officer wrote to the Tribunal on 22 February 2024 referring the registered rent for their determination. On 23 April 2024 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 the papers unless either party requested a hearing which neither party did. The landlord was directed to return the reply form with any documents upon which it wished to rely by 7 May 2024. The tenant was directed to do likewise by 21 May 2024 with the landlord given further opportunity to respond by 28 May 2024.
4. Both parties took the opportunity to make submissions.
5. In assessing the fair rental value of the subject property, the Tribunal has taken into consideration all documentation before it, including various letters and the reply forms returned by the parties.
6. In an email dated 15 January 2024 the tenant states that the rent of £858.00 (stated to be £855.00 in error) is not a fair rent. The tenant states that the property remains fitted as it was in the 1970s and has rotten windows. Photographic evidence of the condition of the kitchen and bathroom have been provided.
7. In the tenant's reply form, the tenant confirms that they require neither a hearing nor an inspection of the property. The tenant submits that the toilet cistern has been replaced but also states that there are frequent breakdowns of the boiler requiring call out, that the windows are rotten and that contrary to an entry on the landlord's reply form there are, in fact, no communal gardens.
8. By way of an email dated 7 February 2024, the landlord states that the cost of the electricity in the common parts averaged approximately £600.00 per year.

9. In the landlord's reply form, the landlord confirms that they do not require a hearing or an inspection of the property but does state that the property does benefit from communal gardens. They also submit that the registered rent is the market rent.
10. The tenant has stated that the electricity costs have, in the past, been £150.00 a year and refutes the landlord's estimated cost of services in an email dated 20th February .
11. It is noted that the tenant is responsible for repair and maintenance as detailed within Section 11 of the Landlord & Tenant Act 1985.
12. On 17 June 2024, on the basis of written submissions and without a hearing, the Tribunal determined the fair rent of the above property at £789.60 per calendar month.

The Law

13. 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.
14. In *Spath Holme Ltd v Chairman of the Greater Manchester, etc. Tribunal* (1995) 24HLR 107 and *Curtis v London Rent Assessment Tribunal* (1999) QB92 the Court of Appeal emphasised that ordinarily a fair rent is the market rent for the property discounted for "scarcity" (i.e. that element of 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 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 Property

15. From Google Maps and information included on the Rent Register, as well as information provided by the parties, the Tribunal were able to determine the following:

The property comprises a first floor studio flat located in a converted four storey mid terraced house originally believed to have been constructed as a single residential dwelling circa 1880 and subsequently converted .

16. From the Rent Register and the replies of the parties, the flat is understood to comprise: A bed sitting room, kitchen, bathroom / WC.
17. The flat is located in a busy and popular location within walking distance of Camden town centre and the transport and shopping facilities provided thereby.

Valuation

18. From *Spath Holme Ltd v Chairman of the Greater Manchester etc. Tribunal*, other registered rents are not relevant as a starting point because they are not market rents.
19. The Tribunal must first determine the market rent for the 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 that the Rent Officer adopted a starting point of £1,400.00 per month and using its own general knowledge of the Greater London property market, the Tribunal agrees with the Rent Officer in this instant and considers that the market rent for a property of this size and in this location, in good condition, with the usual white goods, carpets and decorated to a good condition would be £1,400.00 per month. However, all white goods, carpets and curtains are presumed to be the property of the tenant. In addition, a tenant of a Rent Act property has more onerous repairing obligations than those under an assured shorthold tenancy.
20. With regard to services the Tribunal is of the opinion that there is insufficient evidence to determine the matter either way. It has therefore used its own expertise to assess the likely monthly cost of electricity in the common parts. It is mindful of the fact that the majority of market evidence available would not detail separately a service charge for landlords' costs and would be of rents that included an element payable for common services such as the common part electricity. In effect therefore the Tribunal takes this cost into account in its overall assessment and makes no separate adjustment.
21. Lastly, the Tribunal is mindful of the fact that there are differences in condition between the subject property and properties that might be available to let on the market.
22. The Tribunal, therefore, made the following deductions from the market rent of £1,400.00 per month to reflect those differences:

Market Rent: £1,400.00 per month

Less deductions for:

- Tenant's decorative and repairing liability.
- No white goods.
- No floor coverings.
- The poor condition of windows.
- The antiquated condition of the kitchen and bathroom.

Less: 29.5% £ 413.00 per month

Adjusted rent £ 987.00 per month.

23. 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 a deduction in respect of scarcity of 20% (£197.40 per month) from the adjusted market rent to reflect this element. This left the final figure of £789.60 per month .
24. 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 £871.00 per month.
23. The Tribunal must register the lower of the adjusted market rent or maximum fair rent as the fair rent of the property. In this instance, the Maximum fair rent produces the higher figure and the Tribunal, therefore, registered the rent at £789.60 per month with effect from 17 June 2024 being the date of the Tribunal Decision.

Name: Mr J A Naylor FRICS FIRPM

Date: 17 June 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 might 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 this 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. Any appeal in respect of the Housing Act 1988 should be on a point of law.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

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.]

(5)