



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

Case reference : **LON/00BK/F77/2023/0411**

Property : **Flat 17 Talbot House, 98 St. Martins Lane, London, WC2N 4AX**

Tenant : **Ms E Martyres**

Landlord : **Gascoyne Holdings Ltd**

Type of application : **Determination of Fair Rent under Schedule 11 of the Rent Act 1977**

Tribunal members : **Judge H. Lumby
Mr J Naylor FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **28 May 2024**

Date of decision : **10 June 2024**

WRITTEN REASONS

Decisions of the Tribunal

The Tribunal determines that the fair rent of the Property is £20,328 per year with effect from 28 May 2024.

Written reasons

Background

1. The Property is subject to a lease protected by Schedule 11 of the Rent Act 1977. The effect of this Act is that there is a maximum rent set for the Property, calculated by reference to a formula. If the fair rent calculated by reference to open market rents is in excess of that maximum rent, then the maximum rent will apply. If it is below the maximum, then the lower fair rent will apply. It is however open to landlords to charge a lower rent than the maximum rent and indeed they may have to as a result of separate caps on increases.
2. The lease of the Property dates from 1 April 1983 with a current rent of £16,900 per year, with £1996.99 attributable to services.
3. The maximum fair rent has previously been assessed in relation to the Property. The Landlord applied to register a new fair rent on 11 September 2023. This was passed to the Valuation Office Agency who on 7 November 2023 registered a fair rent of £16,380 per year, of which £2,128.42 was attributable to services. The rent officer explained how this figure was reached by starting with a market rent for the Property of £31,200 per year, to which a deduction of £13,000 was applied together with a further 10% deduction for scarcity.
4. The Landlord objected to this assessment on 17 November 2023 which was as a result referred to the Tribunal for determination, arguing the reduction in the rent assessed by the Valuation Office Agency did not reflect the increases in open market rents for the building.
5. The Tribunal did not inspect the Property as neither party requested an inspection and the Tribunal considered that it could make its determination without seeing the Property, based on the parties' submissions.
6. The Tribunal has issued its notice of determination today. That determination contains the calculation of the maximum fair rent, using the prescribed formula. These are the reasons for its determination.

Property

7. The Property comprises a fifth floor flat in a mansion block constructed in around 1870, adjoining Burleigh Mansions. It contains a lounge and two bedrooms, a kitchen, a bathroom and a WC. Heating and hot water was previously provided by the Landlord from a communal system but has been replaced with a boiler in the Property; the Tenant maintains that this has affected the water pressure and the supply of hot water to the Property (this occurred in 2003). The carpets, curtains and white goods are provided by the Tenant. The Property does not come with parking or any external space; a balcony originally provided with the Property was removed for safety reasons in around 1999.
8. The Property is located on St Martins Lane in London, a busy road with much night time activity including nearby theatres, hotels and bars and restaurants.
9. The Landlord provides various services as part of the rent. This includes cleaning and lighting the common parts, provision of a lift, a door entryphone, a TV aerial, refuse disposal, an overnight security guard, high speed broadband and wifi. Its responsibility for repair reflects the duties imposed on landlords by section 11 of the Landlord and Tenant Act 1985. The Landlord assesses an amount of £5,800 comprised within the rent relates to service charge.

Hearing

10. The hearing was held in person and attended by the Tenant but not the Landlord. She had also made submissions to the Tribunal prior to the hearing. These submissions together with the arguments put forward by her at the hearing were all considered by the Tribunal.

Tenant's submissions

11. The Tenant has various issues with the Property. She argues that as it faces St Martin's Lane, there are noise issues from the street below. This will be exacerbated by a Korean barbeque restaurant being constructed on the ground floor and basement of the building. The use of the remainder of the building for short term accommodation and Airbnb letting means it also noisy within the building and the lift often breaks down.
12. She further contends that the Property has not been maintained by the Landlord, that the move to a boiler within the Property has decreased the availability of hot water and heating and adversely affected the water pressure. In addition, the modernisation of the other residential space within the building has led to noisy pipework that disturbs her sleep. As a result of the lack of maintenance by the Landlord, the Property has old

wiring, an indoor gutter which has flooded “a few times” (bringing down the kitchen ceiling at one point), old and draughty windows and a dilapidated bathroom. She identifies the loss of her balcony and the communal boiler as the biggest losses.

13. The Tenant is the only protected tenant in the building. With the modernisation of the other accommodation, she contends that these are not suitable comparators because they are in totally different condition. As a related point, she argues that the increasing rarity of this sort of accommodation should lead to high scarcity discount, saying that 50% rather than the Tribunal’s standard 20% is appropriate.
14. As a result of these factors, the Tenant argues that a reduction in her rent is appropriate.

Comparables and market rent assessment

15. The Landlord has provided a number of comparables in the building and in Burleigh Mansions and Charing Cross Mansions which have been considered by the Tribunal. The Tenant has also commented on the comparables in these buildings. In addition, the Tribunal considered a number of comparables in the close vicinity of the Property. These had all been let with the information relied upon all freely available on the internet.
16. Based on the Landlord’s comparables, the Tenant’s comments and the Tribunal’s separate consideration of comparables in the close vicinity, the Tribunal has assessed that the open market rent of the Property in full repair is £33,000 per year. The Tribunal has deducted 23% from this figure to reflect the Tenant’s repair liability, the loss of community heating and water pressure, the loss of the balcony, the lift issues, the noise complaints, the lack of floor coverings, carpets and white goods and the windows disrepair. It has then deducted a further 20% from the resultant figure for scarcity. It gave particular consideration to whether the 20% discount for scarcity was still appropriate and considered that it was. This gives a fair rent of £20,328 per year.

Maximum Rent

17. The Tribunal next considered the maximum rent pursuant to the Rent Acts (Maximum Fair Rent) Order 1999. This requires the Tribunal to follow a prescribed formula to generate an uplift to the last registered fair rent. That formula is set out in the Notice of Determination issued by the Tribunal today.
18. Applying that formula gave a maximum rent figure as at the date of the hearing of £21,547 per year.

Decision

19. As the maximum rent figure of £21,547 per year is higher than the calculated rent figure of £20,328 per year, the Tribunal determines that the fair rent is £20,328 per year.

Name: Tribunal Judge Lumby

Date: 10 June 2024

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 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.

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