



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

Case Reference : **LON/00BJ/F77/2024/0151
P:PAPERREMOTE**

Property : **Basement flat 139B Merton Road London
SW18 5EH**

Applicant : **Mr John Noble**

Respondent : **BPT (Bradford Property Trust)
Ltd**

Date of Application : **1 February 2024**

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

Tribunal : **Mrs E Flint FRICS**

**Date and venue of
Hearing** : **18 June 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 18 June 2024 is £208 per week.

Background

1. On 21 November 2023 the landlord applied to the rent officer for registration of a fair rent of £243.60 per week for the above property.
2. The registered rent at the date of the application was £203 per week which had been registered by the rent officer on 10 December 2021 with effect from 9 February 2022.
3. On 16 January 2024, the rent officer registered a fair rent of £214 per week with effect from 9 February 2024.
4. The landlord objected to the registered rent on 1 February 2024.
5. The tribunal issued Directions on 25 April 2024. The tenant sent written representations however no written representations were received from or on behalf of either the landlord.
6. The tenancy commenced on 1 January 1988.
7. I have viewed the locality on streetview.

The Evidence

8. The property is a basement flat within a converted Victorian terrace house on a main road. Local shops are within easy walking distance, Southside shopping centre is approximately one third of a mile and the station three quarters of a mile distant. The accommodation comprises two rooms, kitchen and bathroom/wc, the tenant has use of the garden.
9. The tenant stated that there are extensive areas of damp within all rooms in the flat; plus additional damp in the kitchen following a leak from above, the wc is cracked and the wall tiles are coming off the wall in the bathroom. The landlord had installed a new boiler several years ago. There was a lack of insulation between the flat and the floor above causing noise nuisance: the upper floor is not carpeted. The tenant has provided the carpets, curtains and white goods.

The Law

10. 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.

11. 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

12. 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 Southfields and concluded that the likely market rent for the property would be £350 per week.
13. However, it was first necessary to adjust the hypothetical rent of £350 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 £90 to reflect the condition of the flat and the terms of the tenancy including the tenant's carpets, curtains and white goods.
14. This leaves an adjusted market rent for the subject property of £260 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 £208 per week.

Decision

15. The uncapped fair rent initially determined by me, for the purposes of section 70, is below the maximum fair rent of £256.50 per week calculated under the Rent Acts (Maximum Fair Rent) Order 1999. Therefore, the rent will not be capped under the provisions of the Order.

19. Accordingly, the sum of £208 per week will be registered as the fair rent with effect from 18 June 2024 being the date of my decision.

Chairman: Evelyn Flint

Dated: 18 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 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).

