



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

Case Reference : **LON/00BK/F77/2024/0031**

Property : **27 Westbourne Court, Orsett Terrace, W2
6JT**

Tenant : **Mrs M Smith**

Landlord : **Bankway Properties Ltd**

Date of Objection : **20 June 2024**

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

Tribunal : **Mr A Harris LLM FRICS FCI Arb
Mr C Piarroux JP**

Date of Reasons : **20 June 2024**

DECISION

The sum of £285.00 per week will be registered as the fair rent with effect from 20 June 2024, being the date the Tribunal made the Decision.

© CROWN COPYRIGHT 2023

REASONS

Background

1. The property was previously the subject of a registered rent of £270.00 per week including £34.02 services and £7.11 fuel charges registered on 9 November 2021 and effective from the same date.
2. Following an application by the landlord the rent was registered on and effective from 8 November 2023 at £306.00 per week including £32.40 services and fuel charges of £9.46 per week not counting for rent allowance.
3. Following an objection from the Tenant dated 22 November 2023 to the determination of the fair rent by the Rent Officer, the Tribunal has made a determination under the provisions of the Rent Act 1977.

Inspection

4. The Tribunal has carried out an inspection of the property on 20 June 2024.

Evidence

5. The Tribunal has considered the written submissions provided by the Tenant stating that she objected to the increase in rent because no repairs or improvements to the building or flats had been made over 10 years and not since the rent was last registered.
6. The Landlord provided details of the service charge expenditure and fuel costs applicable to the flat.
7. The tribunal considered that the flat was in a convenient location but in a block which had a tired appearance to the exterior and common parts. The flat lacks a proper kitchen with cooking facilities in what is in effect a cupboard.
8. No comparable rental evidence was provided by either party.

The Law

9. When determining a fair rent in accordance with section 70 of the Rent Act 1977, the tribunal has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property.
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 emphasized 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 - other than as to rent - to that of the regulated tenancy) and that for the purposes of determining the 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.

11. The rent has been previously registered, and the Rent Acts (Maximum Fair Rent) Order 1999 therefore applies unless there are significant improvements made by the Landlord which increase the rent which would be registered by more than 15%. There are no such improvements in this case. It is clear the previous registration certificate was prepared on an incorrect basis as it refers to modernisation and central heating. However, this tribunal has no power to review the previous registration which should have been appealed at the time it was made. The registration is therefore the starting point for assessing the new rent under the Order. The Order sets out the basis for calculating the new rent which is the increase in the Retail Prices Index plus 5% where the rent has previously been registered.

Determination and Valuation

12. In the absence of comparable evidence from the parties the tribunal has relied on our own expert, general knowledge of rental values in the area. We consider that the open market rent for the property in the condition and with the amenities the market would expect would be in the region of £475.00 per week. From this level of rent we have made adjustments in relation to:
 - a. No proper kitchen
 - b. No carpets curtains or white goods
 - c. The Tribunal found that there was substantial scarcity of letting property in the locality of Greater London and using its knowledge and experience made a deduction of 20% from the adjusted market rent.

13. The full valuation is shown below:

Fair rent		PW	
Market rent		£	475.00
less condition & terms	25%	-£	<u>118.75</u>
adjusted rent		£	356.25
less scarcity off adj rent	20%	-£	<u>71.25</u>
Fair rent		£	285.00

14. The Tribunal determines a rent of **£285.00** per week for the purposes of s70.

Decision

15. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was **£285.00** per week. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999

is calculated at **£344.50** per week. The calculation of the capped rent is shown on the decision form.

16. The lower figure is to be registered as the fair rent and in this case it is the lower rent of **£285.00** per week which is to be registered as the fair rent or this property.

Chairman: A Harris

Date: 20 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 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).