



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

Case Reference : **LON/00BK/F77/2024/0014**

Property : **Flat 37 Caroline House Bayswater Road
London W2 4RQ**

Applicant : **Glassrose Limited**

Representative : **M Yale Limited**

Respondent : **Mrs M E L Khyami**

Representative : **In person**

Type of Application : **Determination of a fair rent under
section 70 of the Rent Act 1977**

Tribunal Members : **Mr C Norman FRICS (Chairman)
Mr S Johnson MRICS**

Date of Inspection : **23 May 2024**

Date of Decision : **6 August 2024**

Date of Reasons : **6 August 2024**

REASONS

Background

1. On 18 September 2023, the landlord applied to the Rent Officer for registration of a fair rent of £35,000 per annum for the above property. The rent payable at the time of the application was £25,200 per annum. On 13 November 2023, the rent officer registered a fair rent of £22,815 per annum with effect from 10 December 2023. By an email dated 20 November 2023, the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
2. On 26 January 2024 the Tribunal issued directions setting the matter down for determination by written representations, unless either party requested a hearing which neither did. The parties were each directed to return a proforma Reply form to the Tribunal and each other. The tenant provided a Reply. The landlord did not respond.

Inspection

3. The Tribunal inspected the property on 23 May 2024 in the presence of the tenant only, the landlord not attending.
4. The property is generally in good condition, but the kitchen is original and tired. The property is centrally heated and double-glazed throughout. There is a communal hot water and heating system. This is gas fired.
5. The Property is on the third floor of Caroline House, which consists of a purpose-built, 1950s block of flats. There is lift access, concierge and the internal and external common parts are well maintained. The property is in a prime location being opposite Hyde Park over which it has direct views. Transport links are excellent. Bayswater Road is a busy main road, but the block is set back from the road.
6. The Property is large and comprises a hallway, two double bedrooms, a living room, kitchen with adjacent dining room, bathroom/wc and separate wc.
7. The following improvements had been made by the tenant: fitted units in the bedrooms, decorating and tiling in the bathroom/wc and carpets laid throughout the property; the separate WC had been refurbished; the white goods in the kitchen were provided by the Tenant.
8. The registered rent includes a sum for services as listed on the rent register.

Evidence

The Landlord's Case

9. The landlord did not provide any evidence or submissions, except in relation to points raised by .

The Tenant's Case

10. The tenant's submissions may be summarised as follows. Most of the rooms were in poor condition. The kitchen was in very poor condition, being over 50 years old. The bathroom was 20 years old and in poor condition. The WC was a tenant's improvement and in good condition. The property was double glazed and centrally heated. The tenant had supplied the carpets and curtains. The tenant did not refer to any comparables.

Rent Officer

11. The Tribunal was supplied with documents sent to the rent officer with the application for registration including service charge accounts for the year ending 31 December 2022 signed by registered auditors and Faraday Property Management Limited for the landlord.

Enquiries Made by the Tribunal

12. In view of the absence of comparables put forward by either party, the tribunal identified a comparable, being a large flat at Porchester Gate. This is a building nearby in Bayswater Road and also overlooks Hyde Park. The flat comprises 3 bedrooms and 3 bathrooms. It was let by Strutt and Parker. The asking rent was £6933 per month. The Tribunal sent a copy of the agents' particulars to both parties and invited written representations. The landlord made brief representation, but these did not refer to the comparable. The tenant did not respond.

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.
14. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Tribunal* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Tribunal* [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 - 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).

Valuation

15. As neither party had provided any rental comparables it was necessary for the Tribunal to rely on its own knowledge and experience and its own enquiries (see above). The Tribunal considered that the subject property would command a rent of approximately £66,000 per annum if it had been in the condition considered usual for a modern letting at a market rent. However, the subject property is not in such a condition and must also be valued as if the tenants' improvements (including replacement of fixtures) have not been carried out.
16. Therefore, it was necessary to adjust that hypothetical rent of £66,000 per annum to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as observed by the Tribunal. The Tribunal considered that adjustments from that rent are required as follows: tenant's replacement of hallway WC, 5% poor kitchen 10% and the more onerous terms and conditions of a statutory tenant as compared to an assured shorthold tenant. This gave rise to a total adjustment of 20% or £13,200 per annum.
17. This leaves an adjusted market rent for the subject property of £52,800 per annum.
18. The Tribunal found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (£10,560 per annum) from the adjusted market rent to reflect this element.
19. It follows that the Tribunal found that the uncapped fair rent was £52,800 less £10,560 per annum, or £42,240 per annum.

Effect of the Rent Acts (Maximum Fair Rent) Order 1999 ("The Order")

20. The property is subject to capping under the above Order. The calculations are included in the Notice of Decision. The capped rent is £31,981 per annum.

Services

21. The Tribunal considered the service charge accounts and finds that the amount attributable to services is £7084.13 per annum. The Tribunal finds that the fuel charges not counting for rent allowance of £1305.99 per annum. The Tribunal's calculations are set out at the Appendix.

Decision

22. The fair rent determined by the Tribunal, for the purposes of section 70, was accordingly £31,981 per annum including an amount attributable to services of £7084.13 per annum, with effect from 8 August 2024 being the date of the Tribunal's decision.

Charles Norman FRICS
Valuer Chairman

6 August 2024

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

Appendix Calculation of services

Caroline House, Flat 37 (Percentage Contribution 2.146%)						
For year ending 31 December 2022	2015	Apportionment				
Porterage costs	£ 177,501.00	80%	£ 142,000.80			
Porters' expenses	£ 1,329.00	80%	£ 1,063.20			
Electricity - Common Parts	£ 23,665.00	100%	£ 23,665.00			
Insurance - buildings/terrorism & engineering	£ 85,458.00	100%				
Gardening and Tree maintenance	£ 4,848.00	100%	£ 4,848.00			
Lift maintenance and repair	£ 9,508.00	100%	£ 9,508.00			
General Maintenance	£ 44,176.00	0%				
Cleaning and refuse collection	£ 15,001.00	100%	£ 15,001.00			
Pest control	£ 2,306.00	100%	£ 2,306.00			
TV aerial, satellite and CCTV system maintenance	£ 2,085.00	100%	£ 2,085.00			
General expenses	£ 2,365.00	0%				
Accountancy	£ 4,920.00	0%				
Management fee	£ 38,460.00	0%				
Boiler maintenance and repairs	£ 10,503.00	100%	£ 10,503.00			
Gas	£ 76,071.00	100%	£ 76,071.00			
			£ 287,051.00	0.02146	£ 6,160.11	
Management (15%)					£ 924.02	
					£ 7,084.13	
Fuel charges not counting for rent allowance	£ 76,071.00	80%	£ 60,856.80	0.02146	£ 1,305.99	