



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

**Case Reference** : **HS/LON/00AW/F77/2024/0065**

**Property** : **2 Colville Square  
Notting Hill  
London W11 2ED**

**Applicant** : **Mr. J E Nicholson (Tenant)**

**Representative** : **None**

**Respondent** : **Mountview Estates plc. (Landlord)**

**Representative** : **None**

**Type of Application** : **S.70 Rent Act 1977 – Determination  
of a new fair rent**

**Tribunal Member** : **Mr N Martindale FRICS**

**Date and venue of  
Meeting** : **14 August 2024  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **14 August 2024**

---

**REASONS FOR DECISION**

---

**Background**

- 1 The landlord applied to the Rent Officer for registration of a fair rent. The rent registered as already payable at the time of the application was £726 per calendar month, from 11 January 2022, previously determined by the Tribunal. The landlord stated in its notice RR1 that the new figure sought was to be £196 per week. It is believed that the rent is calendar monthly. The registered rent is calendar monthly.

- 2 Although the Rent Officer set a rent as a result, subsequently a party objected and sought a re-determination of the application, by the Tribunal.

## **Inspection**

- 3 The Tribunal did not inspect the Property internally. The Property appears from Google Streetview (@August 2019 & July 2022) to be part of a large former end terraced house from the 1850's since subdivided into a number self contained flats. The Property is not self contained according to the Register records. The former house was on 6 levels including a mansard roof plus a basement, with an internal communal staircase. It is likely that much of the space was formerly non-self-contained but that it had been modernised over the years as it became vacant, by the landlord.
- 4 The front elevation of the building appears to be in fair to good condition. The block has white painted cement rendered walls and the the likely butterfly/ mansard roof to the building in slate and metal or similar finish. It is located on a side street the rear elevation facing on to a private shared garden square. All flats are accessed from the street at ground level.
- 5 The Property has 2 rooms, kitchen, bathroom & WC. The records showed that the Property has no central heating, nor double glazing. The Property was let from 1976. The Tribunal made the assumption common as confirmed by the tenant's Reply Form, that in established tenancies such as this one, that there were no carpets or curtains, or white goods now effectively included in the letting by the landlord even if they had been there originally. It also concluded that the kitchen and bathroom whilst functional were basic, only.
- 6 The Tribunal noted that the flat was not self-contained. The flat's bathroom and wc, were not within the flat; nor even on the same floor as the Property. Whilst this arrangement might have been normal in the immediate post war era, through the 1970's and 1980's this was becoming more and more unacceptable to many renters who sought the space of a 1 bedroom flat in the 2020's and expect their flat to contain all exclusive facilities. It would increasingly be like renting a room or rooms in a shared house. This would in turn notably narrow and depress the potential market for this Property. The effects of this marked deficiency, are likely to become increasingly pronounced in future years.
- 7 The tenant listed a few defects or shortcomings and provided some detailed close up photographs though without a setting for most. There was a hole to the bathroom ceiling from a roof leak; a general electrical installation disrepair; a failed intercom system to the ground floor communal entrance (though this had recently been repaired) and no heating to the bedroom. The landlord replied that the defects were longstanding because, the tenant declined to provide access. The

tenant disputed this and gave a short history of attempted repairs by the landlord's contractors which had generally failed.

## **Directions**

- 8 Directions, for the progression of the case were issued on 21 February 2024, as amended by Marsha Phillips of the FTT on 17 April 2024. The Tribunal received brief representations from the landlord and a longer statement with the standard Reply Form and photographs from the tenant. Neither party requested a hearing. The case was determined only on the papers.

## **Law**

- 9 When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value 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
- (a) 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
  - (b) 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).

## **Decision**

11. The Property is laid out, arranged and maintained for standards of an earlier era. Whilst established tenants would often be accustomed to short comings of a property, those low standards would increasingly affect the wider market in the C21st. The Property is in a significantly inferior condition and inferior layout, to that of comparable properties, so that their rents are substantially higher than the market rent for the Property. It calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of a relatively unmodernised

property in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.

12. On the evidence of the Tribunal's general knowledge of market rent levels in Kensington and Chelsea, the subject property if modernized, self contained, up to date and in good order would let on normal Assured Shorthold Tenancy (AST) terms, at £2500 per calendar month.
13. However the Tribunal makes substantial allowance for an absence of carpet and curtains, for a lack of white goods, for only a basic kitchen and bathroom, and no double glazing. In particular it makes a considerable reduction for the non-self-contained nature of the accommodation. These adjustments total a £1500 pcm deduction. This produces an adjusted market rent of £1000 pcm prior to considering scarcity.
14. The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was a substantial scarcity in the locality of Greater London and therefore makes a further deduction of 20% from the adjusted market rent to reflect this element. This deduction results in an uncapped fair rent of £800 pcm.
15. The Tribunal is also required to calculate the Maximum Fair Rent Cap (MFRCap) which serves to limit the extent of increase in a fair rent on review. The cap is determined by a formula under statutory regulation, which whilst allowing for an element of inflation may serve to prevent excessive increases. There is no discretion as to how to apply this cap. At the date of the Tribunal's determination the cap produces a figure of £931 pcm. This figure is a combination of the previously registered rent being subject to the change in RPI between registration dates, rounded up to the nearest 50p. There is no service charge element. In this case the cap did apply according to the MFRCap regulations.
16. The new rent calculated above is subject to cap, but the fair rent is already below it. The fair rent is therefore £800 pcm. It takes effect from and including the date of determination, 14 August 2024. The landlord may charge a rent at any level up to but, not in excess of, this figure.

**Chairman N Martindale FRICS**

**Dated 14 August 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).