



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

Case reference : **LON/00BA/F77/2024/0225**

Property : **52 Gorrington Park Avenue, Mitcham
CR4 2DG**

**Applicant
(Landlord)** : **John Michael Childs c/o Hannides & Co
Solicitors.**

Representative : **None**

**Respondent
(Tenant)** : **John Michael Childs c/o Hannides & Co
Solicitors.**

Representative : **None**

Type of application : **Section 70 of the Rent ACT 1977**

Tribunal members : **Mr D Jagger MRICS
Mr J Francis**

Venue : **Paper determination**

Date of reasons : **8th October 2024**

DECISION

The Tribunal determines £82 per week is to be registered as the fair rent for the above property with effect from 20th September 2024 being the date of the Tribunal's decision.

The extended reasons have been prepared following a decision on the 19th September and a request from the tenant on the 3rd October 2024.

Reasons

Background

On the 8th February 2024 the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £2000 per month for the property.

The rent registered at the time of the application was £27.50 per week effective from 27 April 1991.

On 15th April 2024 the Rent Officer registered a fair rent of £81 per week, effective from 15th April 2023. The rent increase imposed by the Rent Officer has been “capped” or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 (the Order). For information, the uncapped rent was £200 per month.

By an email dated 7th May 2024 from the landlord’s representative, the Landlord objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal.

The law

When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, 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 (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant, on the rental value of the property. Section 70(2) of the Rent Act 1977 imposes on the Tribunal an assumption that the number of persons seeking to become tenants of similar dwelling house in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling houses in the locality which are available for letting on such terms. This is commonly called ‘scarcity’.

In *Spath Holme Ltd v Chairman of the Greater Manchester Council (1995) 28 HLR 107* and *Curtis v London Rent Assessment Tribunal [1999] QB 92* the Court of Appeal emphasised

- (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).

The Rent Acts (Maximum Fair Rent) Order 1999 places a “cap” on the permissible amount of the increase of a fair rent between one registration and the next, by reference to the amount of the increase in the United Kingdom Index of Retail Prices between the dates of the two registrations. Where the cap applies the Rent Officer and the Tribunal is prevented from increasing the amount of the fair rent that it registers beyond the maximum fair rent calculated in accordance with the provisions of the Order and the mathematical formula set out in the Order.

By article 2(7) of the 1999 Order the capping provisions do not apply “in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.”

Facts found without Inspection

The parties did not request the Tribunal to inspect the property and the Tribunal were satisfied this was not required and relied on information provided by the parties together with its expert knowledge.

The property is a converted flat located at first floor level which forms part of a Victorian terrace building located in an established road convenient to local amenities.

The accommodation comprises: living room, kitchen, three bedrooms, bathroom, garden.

There is gas central heating to radiators and double glazed windows and street side parking arrangements.

Terms of the tenancy

It is understood the periodic protected tenancy commenced in 1980, although a copy of the tenancy agreement was not provided to the Tribunal. It is assumed that the landlord is responsible for structural repairs and external decoration; the tenant is responsible for internal decorations. The property was let unfurnished.

Tenant's improvements and Condition

It is stated that the tenant has made improvements during the term of the tenancy. The tenant confirms carpets, curtains and any white goods were not provided by landlord.

Evidence

The Tribunal had copies of the Valuation Office Agency correspondence and the rent registers effective from the 27 April 1991 and 15 April 2024 together with the calculations for the most recent registration.

In a bundle of documents, the landlord and tenant provided information in connection with the property in the form of a completed Reply form, together with a very helpful "Statement of Case" provided by the tenants son Darren Cloonan.

Valuation

In the first instance the Tribunal 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 that is considered usual for such an open market letting.

Based its expert knowledge of lettings in the Mitcham area, the Tribunal consider that the subject property, if finished to a reasonable standard would be likely to attract a rent let on an assured shorthold tenancy, for **£507** per week. (£2,200 per month)

We now need to **adjust that hypothetical net rent of £507 per week** to allow for the differences between the terms of this tenancy and the lack of white goods, carpets and curtains, dated kitchen and sanitary fittings, damp mould and the tenants decorating responsibilities (disregarding the effect of tenant's improvements and any disrepair or other defect attributable to the tenant).

The Tribunal has considered very carefully the landlord's submissions and the notes prepared by the Rent Officer.

Using our own expertise, we considered that deductions of 20% should be applied to take into account the terms of the tenancy, and the condition of the property at the commencement of the tenancy. This provides a deduction of £152 per week from the hypothetical rent. This reduces the figure to £355 per week.

It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the tribunal's estimate of the amount by which the rent would need to be reduced to attract a tenant.

Scarcity

The tribunal then went on to consider whether a deduction falls to be made to reflect scarcity within the meaning of section 70(2) of the 1977 Act. The tribunal followed the decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee*, in which it was held that scarcity over a wide area should be considered rather than scarcity in relation to a particular locality.

In the Tribunals opinion there should be a deduction of 20% for scarcity as it is considered demand outweighs supply of rented properties in the area. This provides a figure of £71 and therefore reduces the rent to **£284 per week**.

Conclusion

The capping provisions of the Rent Acts (Maximum Fair Rent) Order apply and therefore the capping figure applies. The fair rent in accordance with the attached calculations is **£82 per week**.

Therefore, this is the fair rent to be registered limited by the Rent Acts (Maximum Fair Rent) Order 1999 with effect from the 20 September 2024 being the date of the Tribunals decision.

Detailed calculations for the capped maximum fair rent are provided attached this decision. This calculation for this figure is based upon the indexation of the Retail Price Index (RPI) during the period of the two rent assessments. During the past 12 months, the RPI has increased dramatically due to the cost-of-living crisis and therefore this rental calculation has escalated significantly.

D Jagger MRICS Valuer Chair.

8th October 2024

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.