



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

Case Reference	:	LON/00BJ/F77/2024/0617
Property	:	G/F/S 234 Merton Road Wandsworth London SW18 5JQ
Applicant	:	Mrs Lilian Smith (Tenant)
Representative	:	None
Respondent	:	Northumberland & Durham Property Trust (Landlord)
Representative	:	Grainger Plc
Type of Application	:	S.70 Rent Act 1977 – Determination of a new fair rent
Tribunal Members	:	Mr N. Martindale FRICS
Date and venue of Meeting	:	26 November 2024 First Tier Tribunal (London) HMCTS 10 Alfred Place, London WC1E 7LR
Date of Decision	:	26 November 2024

REASONS FOR DECISION

Background

- 1 By an application, the landlord applied to the Rent Officer for registration of a fair rent. The rent stated as payable at the time of the application was said to be £241.50 per week.
- 2 With effect from 25 July 2024 the Rent Officer registered a fair rent of £284 per week. There was no service charge element. The tenant

objected to the new fair rent. The First Tier Tribunal was notified of this objection and a request for a fresh determination of the rent.

Directions

- 3 Directions were issued on 3 October 2024 by the Tribunal, for case progression. Neither party requested a hearing.

Representations

- 4 Although standard Reply Forms were issued by the Tribunal prior, completed versions were not received back from either landlord or tenant. There were no detailed representations, from either.
- 5 The Tribunal determined the new rent with the assistance of such written statements from the parties as were received and for which the Tribunal is grateful.

Inspection

- 6 The Tribunal did not inspect the Property. The Tribunal was however able to externally view the Property from Google Streetview (@ June 2024). The Property appeared to date from the 1870's in an established later Victorian residential area of the same age adjacent. Merton Road is classified as the A218, a busy mixed residential and commercial road.
- 7 Externally the Property forms most of the right hand of a former pair of semi-detached family houses. No.234 was converted most likely post war in the 1950's, into a self contained basement flat, with separate ground floor entrance to the Property above. The Property externally appears in fair to good condition for its age.
- 8 The Property is a large maisonette set on 3 levels: grounds, first and second (attic) floors. It comprises, 2 rooms, kitchen, 3 bedrooms and a shower/ wc on the upper floors. There is full gas fired central heating. The windows appear to be original double hung sash, timber, single glazed.
- 9 There is a front and rear garden. There is no off road parking. There are on road parking restrictions but nearby residential controlled parking in the side roads. The Property and the basement flat share the front garden access.
- 10 The main roof is double pitched, slated, with a double pitched slated dormer roof to the front attic room window. The building is of brick, fair faced for the most part. There is a short flight of steps up to the front entrance to the Property, not shared by the basement flat.
- 11 The tenancy began 1 January 1953. Carpets and curtains and white goods are now assumed provided by the tenant, even if not initially. The kitchen and bathroom are assumed to be functional, only.

Law

- 12 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.
- 13 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).
- 14 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject 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 an un-modernised house 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.
- 15 On the evidence of the comparable lettings and our own general knowledge of market rent levels in and around Wandsworth, the Tribunal accepts that the Property would let on normal Assured Shorthold Tenancy (AST) terms, for £600 per week. This then, is the appropriate starting point from which to determine the rent of the Property as it falls to be valued.
- 16 A normal open market letting would include carpets, curtains and "white goods", but after grant in the 1950's it is assumed that there are in effect provided by the tenant. Glazing is single. The Tribunal

assumes the kitchen and bathroom, whilst functional, are only basic. Deduction for these various shortcomings amounts to £150 pw, leaving the adjusted market rent at £450 pw.

- 17 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was scarcity in the locality of Wandsworth for this type of property and makes a further deduction of 20% from the adjusted market rent.
- 18 The fair rent to be registered on this basis alone would be £360 pw, but, the new rent is limited by the statutory Maximum Fair Rent Cap calculation. The MFRC limits any increase to the change in RPI (set two months prior at each date), between the date of the last registration of a fair rent and the current, plus 5%. The calculations are shown in the MFR form and this caps the new fair rent at £286 pw. There are no service charges. The fair rent is therefore capped and registered at this figure.
- 19 The Rent Act makes no allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent registered. The landlord is entitled but, not compelled, to charge the tenants rent at the registered figure from the effective date. However the landlord may not charge more than the fair rent.

Chairman N Martindale FRICS

Dated 26 November 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).