



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

**Case Reference** : **LON/00AW/F77/2023/0375**

**Property** : **Flat 8, 61 Queen's Gate, London, SW7  
5JP**

**Tenant** : **Miss Nadia Curlin**

**Representative** : **Oliver Fisher Solicitors**

**Landlord** : **Kensington Avenue Limited**

**Representative** : **Bingham & Elliot**

**Date of Objection** : **1 July 2023**

**Type of Application** : **Determination of a Fair Rent under  
Section 70, Rent Act 1977**

**Tribunal Members** : **Mrs E Ratcliff MRICS  
Judge N Carr**

**Date & Venue** : **29 November 2024  
10 Alfred Place, London WC1E 7LR**

**Decision Date** : **20 December 2024**

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**DECISION**

**The sum of £1,248 per calendar month will be registered as the fair rent with effect from 20 December 2024, being the date the Tribunal made the Decision.**

## **REASONS**

### **Background**

1. The Landlord applied to the Rent Officer for registration of a fair rent of £2,492 per calendar month in relation to Flat 8, 61 Queen's Gate, London, SW7 5JP, the subject property. The Landlord estimated that the rent proposed included a sum of £192 per calendar month for services. The rent payable at the time was £1,210 per calendar month. This was the rent registered on 24 April 2015 and included a sum of £107.24 per calendar month for services.
2. On 19 June 2023, the Rent Officer registered a fair rent of £1,235 per calendar month and noted that £192 was attributable to services. The newly registered rent was effective from the same day.
3. By email dated 1 July 2023, the Landlord objected to the rent determination by the Rent Officer and the matter was referred to the Tribunal on 6 December 2023.
4. The Tribunal carried out an inspection of the property on 4 March 2024. On the same day, the Tribunal determined a rent of £1,352 per calendar month. Full written reasons were requested by the Landlord and are dated 16 April 2024.
5. On 24 May 2024 the Landlord made an application to the Tribunal to appeal the rent determination decision to the Upper Tribunal. The Tribunal refused permission to appeal and so the Landlord applied direct to the Upper Tribunal for permission to appeal, which was granted on 25 July 2024
6. The appeal to the Upper Tribunal was determined on papers on 1 November 2024. The appeal was allowed, and the matter remitted to this Tribunal for redetermination.
7. On 12 November 2024, the Tribunal wrote by letter to both parties setting out that the Tribunal intended to redetermine the fair rent at a hearing at 10 Alfred Place, London, WC1E 7LR on 29 November 2024, with an inspection to follow on the same day.

### **Hearing**

8. The hearing opened at 10am and was adjourned at 10:15am as neither the Tenant nor the Landlord, or their representatives, were in attendance.
9. The Tribunal noted that the Tenant's representative advised by letter of 20 November 2024 that their client was elderly and be unable to attend

in person and made written submissions for the Tribunal to consider. They did not explain why they would not attend on their client's behalf.

10. By emails, also of 20 November 2024, the Landlord's representative firstly stated that "*This case has always been decided on paper. Hence unless the Respondent or their solicitor is attending the hearing we do not intend to do so.*" In a second email, understanding that "*the other side did not want a hearing or inspection*" they confirmed that they "*are happy for this case to be dealt with without a hearing and hence there will be no attendance by either party on 29 November.*"
11. It is for the Tribunal to decide whether a hearing is to be held and, in this case, the Tribunal had made it clear in their letter of 12 November 2024 that they required a hearing, as it would have assisted the Tribunal in resolution of apparent disputes of fact contained in the parties' respective statements of case.

### **Inspection and property**

12. The Tribunal carried out an inspection of the property on 29 November 2024. The Tenant was present, but the Landlord did not attend.
13. The Tribunal found the property to be a small one-bedroomed fourth floor flat. The flat is reached via a communal front door with an entry phone system and shared hall, stairs and landings. Although externally the building appeared to be maintained, the internal communal halls were very tired and in need of redecoration. The building benefitted from a small lift to the third floor only, which appeared to be in good working order.
14. The property comprised a living room, a very small kitchen, a bedroom and a bathroom, with all rooms leading off an internal hallway. The general condition was very tired and in need of renovation, reflooring and redecoration to bring it up to basic modern standards. Throughout, there were notable cracks to the walls close to the ceiling, which the Tenant attributed to the effects of works previously carried out to add a fifth floor to the building.
15. There was no central or fixed heating. The windows were single-glazed wooden sash windows that appeared ill-fitting. This was particularly the case with the bedroom window, where the sash was broken, and the tenant was using a rolled towel or small blanket with a small plastic sheet over to prevent drafts and water ingress.
16. There appeared to have been a central fire alarm system, which no longer worked, with the detector in the living room hanging from the ceiling. The Fire Brigade had fitted a battery-operated smoke alarm to the flat at the Tenant's request.

17. The property appeared to have been relatively recently rewired including a replacement consumer unit. The wiring is surface mounted, and the Tenant reported that she was unable to use some of the sockets in the kitchen without ‘tripping’ a switch in the consumer unit.
18. The kitchen is particularly narrow and poorly equipped compared to modern standards, with inadequate work surface and the washing machine draining directly into the sink, presumably because of a lack of its own drainage.
19. The bathroom is very dated and tired. There is an issue with the WC cistern which requires a part to be tied in place with string. The boiler is above the bath and a little overbearing in comparison to the size of the room. There is a heated towel rail.

## **Evidence**

20. The Tribunal has carefully considered all written submissions provided by both parties.

### The Landlord’s case

21. In the Landlord’s reply form, received by the Tribunal on 21 December 2023, they describe the property as a one-bedroomed flat on the fourth floor with a lift, no central heating but with double-glazing, carpets, curtains and white goods provided by the Landlord. They also advised that the property benefitted from a parking permit and helpfully listed improvements carried out since the rent was last registered in 2015. The Landlord went on to state that “*There is no disrepair/defects outstanding*”.
22. In the Landlord’s response to the Tenant’s submissions, received by the Tribunal on 11 January 2024, further information was provided in relation to improvements and can be summarised as:
  - installing new electricity consumer unit and sockets at a cost of £4,020;
  - overhaul of windows and window frames at a cost of £2,500, although the Tribunal noted that the Landlord’s reply form had stated that window frames had been replaced and double-glazing installed;
  - replacing bath and mixer taps at a cost of £360;
  - major external repair and redecoration works to the external building at a cost of £119,390; and

- major internal repair and redecoration to the internal common parts of the building at a cost of £79,720, which were said to be ‘underway’ in the Landlord’s reply form of 21 December 2023 but, on the Tribunal’s inspection, there was no evidence of such works having been, or being, carried out.
23. In addition to the reply form, the Landlord provided a schedule of nearby one-bedroom flats ranging in rent from £3,445 to £4,312 per calendar month.
  24. Finally, the Landlord made a number of other points in their response to the Tenant’s submissions that they asked the Tribunal to consider. These included that The Rent Acts (Maximum Fair Rent) Order 1999 does not apply in this case as a result of the improvements carried out, that the comparable evidence provided by the Tenant is not relevant as it does not relate to market rents, that there are no outstanding issues with repairs raised with them by the Tenant and, finally, that the Tenant’s own solicitor invited the Rent Officer to fix the rent at £1,400 per calendar month.

#### The Tenant’s Case

25. The Tenant made submissions to the Rent Officer in relation to condition and comparable evidence. This was provided to the Tribunal along with a number of other submissions, the last being on 20 November 2024.
26. The Tenant provided a schedule of comparable uncapped rent registrations downloaded from the online rent register, and asserted that these were more relevant than nearby flats recently let on assured shorthold terms and refurbished to a high standard.
27. The property was described by the Tenant as having four rooms: living room (4.5m x 2.5m), kitchen of (2.9m x 1.5m), bedroom (5.2m x 2.4m) and bathroom (1.37m x 2.7m). They submitted that there was no central heating, double glazing or permit parking.
28. The Tenant provided helpful photographic evidence of the poor condition of the kitchen units and flooring, cracking to several walls, wiring, and the fire alarm hanging from the ceiling. They stated that the property is in very poor condition and decorative order and made the point that works ordered under an Improvement Notice in December 2019 have either not been carried out (improved lighting), or not completed to the correct standard (windows and wiring).
29. The Tenant accepts that windows were replaced but says that this was done before the rent was last registered, in 2011 (living room) and 2012/13 (bedroom). However, the windows, as observed on the Tribunal’s inspection, are in disrepair and do not shut properly.

30. The Tenant was reimbursed for the cost of replacing the bath mixer taps in around 2019/20, but the bath has clearly not been replaced.
31. The Tenant accepts that the exterior of the building has recently been painted, however no work has been carried out to the interior common parts.
32. The Tenant has occupied the property since 1974. When she first took up occupation, the property was furnished. However, over the years, the Landlord has not replaced any furniture as it has become obsolete, except for the cooker, which the Landlord reimbursed the Tenant for. Consequently, the original furniture has either been replaced by the Tenant or is aged and of no value.

## **The Law**

33. The law is found in Schedule 11, Part 1, paragraph 9(1) to the Rent Act 1977, section 70 of the Rent Act 1977, and The Rent Acts (Maximum Fair Rent) Order 1999, which in so far as is relevant in this case, provides:

### ***Schedule 11, Part 1, Rent Act 1977***

#### ***Applications for Registration of Rent***

- 9(1) *The appropriate tribunal shall—*
- (a) *if it appears to them that the rent registered or confirmed by the rent officer is a fair rent, confirm that rent;*
  - (b) *if it does not appear to them that that rent is a fair rent, determine a fair rent for the dwelling house.*

### ***Section 70, Rent Act 1977***

#### ***Determination of fair rent.***

- (1) *In determining, for the purposes of this Part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to—*
- (a) *the age, character, locality and state of repair of the dwelling-house,*

- (b) *if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture, and*
  - (c) *any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.*
- (2) *For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses 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.*
- (3) *There shall be disregarded—*
- (a) *any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;*
  - (b) *any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his;*
  - (c)(d). . . . .
  - (e) *if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.*

**The Rent Acts (Maximum Fair Rent) Order 1999**

2 (1) *Where this article applies, the amount to be registered as the rent of the dwelling-house under Part IV shall not, subject to paragraph (5), exceed the maximum fair rent calculated in accordance with the formula set out in paragraph (2).*

34. *Spath Holme Ltd v Chairman of the Greater Manchester and Lancashire Rent Assessment Committee (No1) (1995) 28 HLR 107 and*

*Curtis v London Rent Assessment Committee [1999] QB 92* confirm that a fair rent is the market rent for the property discounted for “scarcity” (Rent Act 1977, s70(2)) and, for the purposes of determining the market rent, assured tenancy (market rents) are usually appropriate comparables. Those comparables should be adjusted where necessary, to reflect any differences between the comparables and the subject property, including tenancy terms where appropriate.

## **Determination and Valuation**

35. The Landlord having failed to attend at either the hearing or the inspection, the Tribunal must deduce such facts as it sees fit from its own observations and inferences.
36. Having considered the comparable evidence provided by the parties and the Tribunal’s own expertise and general knowledge of rental values in the area, the Tribunal considers that the market rent for a property of this size and to the basic or average standard expected in this location would be in the region of **£2,600 per calendar month**. This has regard to the age and character of the property, and that it is effectively now unfurnished, given the furniture provided in 1974 has either needed to be replaced at the Tenant’s expense or no longer has any value.
37. In reaching this view, the Tribunal has considered the schedule of comparable rents provided by the Landlord. The six comparables are all one-bedroomed flats located close to the subject property in either Queen’s Gate or Queen’s Gate Place. However, they appear to be significantly larger, ranging in size between 63m<sup>2</sup> (674 ft<sup>2</sup>) and 98 m<sup>2</sup> (1,057 ft<sup>2</sup>). The Landlord has not provided his estimate of the size of the subject property. The Tribunal has no reason to disbelieve the estimate of room sizes provided by the Tenant in their reply form, which broadly accord with what the Tribunal observed at the inspection. They suggest that the property is unlikely to be larger than 35-40m<sup>2</sup> (375 – 430 ft<sup>2</sup>), which is significantly smaller than the comparables provided. From this the Tribunal draws the conclusion that the market rent for the subject property would be notably lower than the Landlord’s comparables of £3,445 to £4,312 per calendar month.
38. The Landlord provided some high-level analysis of their comparable rents: annual rent payable in comparison to size (£/ft<sup>2</sup>). For example, for the smallest comparable (63m<sup>2</sup>/674 ft<sup>2</sup>), the rent of £4,312 per month equates to £77 per ft<sup>2</sup> per year, and for the largest (98m<sup>2</sup>/1,057 ft<sup>2</sup>) the rent of £3,770 per month equates to £43 per ft<sup>2</sup> per year. This is a very crude way to analyse passing rents as it does not take into consideration other important variables such as condition and quality, furnished/unfurnished, whether there is any outdoor space, or the storey level of the flat, for example. However, the Tribunal noted that applying £77 per ft<sup>2</sup> per year to the subject property would lead to a rent broadly in the region of £2,400 to £2,560 per calendar month.



39. The Landlord asserts that the range in rents achieved, £3,445 to £4,312 per calendar month, once adjusted for scarcity and disrepair/disregards supports a fair rent determination of £2,492 per calendar month. However, they do not provide their valuation or an explanation of how they have arrived at £2,492 from a starting point of £3,445 to £4,312.
40. The Tribunal also considered the Tenant's evidence of similar uncapped registered rents. Although interesting, other registered rents are not relevant in determining the fair rent of another property. The starting point must be the market rent for the subject property, which is then adjustment for disrepair/disregards and scarcity (s70(1) – (3); Rent Act 1977).
41. The Tribunal adjusted the assumed market rent for the general poor condition of the property including significant cracking to walls, the lack of central heating, condition of the electrical system, ill-fitting single glazed windows, very dated and poorly equipped kitchen and bathroom, lack of a modern fire alarm system, poor condition of carpets, limited lift access and the unmaintained condition of the communal areas.
42. The Tribunal then made an adjustment for scarcity using their own general knowledge and expertise. The Tribunal considers that in the wider geographical area there is an imbalance of supply and demand impacting on rental values and has, therefore, made a reduction of 20% for scarcity.

43. The full valuation is shown below:

	per calendar month
Market Rent	£2,600
<i>Less</i>	
Poor general condition incl. cracking to walls, )	
No central heating )	
Ill-fitting single glazed windows )	
Condition of kitchen )	
Condition of bathroom incl. damaged cistern ) approx.	
Condition of electrical system ) 40%	
No modern fire alarm system )	
Lift access limited to 3 <sup>rd</sup> floor )	
Unmaintained communal areas )	
	<u>£1,040</u>
	£ 1,560
<i>Less</i>	
Scarcity approx. 20%	£ <u>312</u>
	<b>£1,248</b>

44. The Tribunal determines an uncapped fair rent of **£1,248 per calendar month**.

### **Decision**

45. The uncapped fair rent determined by the Tribunal, for the purposes of section 70, was £1,248 per calendar month. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at **£1,893 per calendar month**. The calculation of the capped rent is shown on the decision form. In this case, the uncapped fair rent of **£1,248 per calendar month** is lower and is to be registered as the fair rent of this property. For this reason, the Tribunal has not needed to consider whether any exemption applies to the capping provisions.

**Chair: Mrs E Ratcliff MRICS**

**Date: 20 December 2024**

### **APPEAL PROVISIONS**

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 Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).