



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

**Case reference** : **LON/00AP/F77/2024/0643**

**Property** : **364 Muswell Hill Broadway, London  
N10 1DJ**

**Applicants  
(Tenant)** : **Miss Sara Salamat**

**Representative** : **None**

**Respondent  
(Landlord)** : **Bank of Scotland PLC**

**Representative** : **Connells Group**

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

**Tribunal members** : **Mr D Jagger MRICS  
Mr O Miller**

**Date of Reasons** : **24 January 2025**

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**Reasons**

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**The Tribunal determines £10,032 per annum is to be registered as the fair rent for the above property with effect from 24 January 2025 being the date of the Tribunal's decision.**

## **Reasons**

### **Background**

On 24 September 2023 the landlord's agent, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £771 per month.

The rent payable at the time of the application was £718 per month effective from 12 November 2018.

On 9 August 2024 the Rent Officer registered a fair rent of £12,120 per annum which equates to £1,010 per month effective from the 9 August 2024. The rent increase imposed by the Rent Officer had not been "capped" or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 (the Order).

By an email dated 11 September 2024 the tenant 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.”*

### **Hearing**

It had been agreed with the parties in advance that there would be a hearing held at 10 Alfred Place, London WC1E 7LR.

### **The Hearing**

A hearing took place at 10.40am on the 24 January 2025 which was attended by the Tenant and her good friend Samantha Roch. The Tribunal has consideration of the comprehensive evidence provided by the Tenant which included a video, photographs, rent analysis schedule and completed reply form. The tenant provided the Tribunal evidence in connection with the significant improvements and maintenance undertaken by her together with very poor condition of the shared common parts and the front entrance door.

### **Facts found without Inspection.**

The property is a self-contained first floor flat which forms part of a Victorian three storey building over commercial premises with brick and ornate stucco elevations and a pitched roof.

The property is located in a busy commercial road convenient to underground railway station.

The accommodation comprises: living rooms, kitchen, 2 bedrooms, shower room, roof terrace. There is gas central heating and timber single glazed window units. The property is approached via shared common parts and staircase which is very poor condition based upon the photographic evidence provided to the Tribunal.

## **Terms of the tenancy**

The Tribunal issued Directions on the 29 October 2024 which set out a timescale for the proceedings. The Landlord's Application for Registration of Fair Rent states the agreement commenced on the 24 September 1975. However, the Tenant provided the Tenant a copy of the actual agreement which commenced on the 19 April 1986. The agreement made the landlord responsible for structural repairs and external decorations. The tenant is responsible for internal decorations. It is assumed the property was let unfurnished.

## **Condition of the Property**

The Tenant confirms that over the years she has carried out significant improvements and maintenance to provide a home. Such improvements include replacement kitchen and sanitary fittings, carpets and curtains, general decoration, white goods and the formation of a roof terrace with local authority planning consent. There is gas central heating installed by the Landlord. Windows are softwood single glazed units. The Tenant when asked, confirmed that when she moved in the property was in need of complete refurbishment and barely habitable with disrepair to all fittings. In essence, the Landlord has been absent and to her benefit the Tenant has assumed complete control of the flat over the years.

## **Written Evidence**

The Tribunal had copies of the Valuation Office Agency correspondence including the previous rent registration together with the calculations for the most recent registration.

As previously mentioned, The Tenant provided a completed Reply Form with submissions and photographs in connection with the condition of the property.

## **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 upon its expert knowledge of the Muswell Hill area, the Tribunal considers that the subject property, if finished to a reasonable standard would be likely to attract a rent let on an assured shorthold tenancy, of £22,800 per annum. (1,900 per month)

Next, the Tribunal needs to **adjust that hypothetical rent of £22,800 per annum** to allow for the differences between the terms of this tenancy, the Tenants improvements, single glazed windows, the lack of white goods, carpets and curtains, and the tenant's 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 information submitted by the Tenant.

Using its own expertise, the Tribunal considers that a deduction of 45% should be applied in order to take into account the matters stated above. This provides a deduction of £10,260 per annum from the hypothetical rent. This reduces the figure to £12,540 per annum.

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**

Thirdly, 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 Tribunal's opinion there should be a deduction of 20% for scarcity as it is considered demand outweighs supply of rented properties in the general area. This provides a figure of £2,505 and therefore reduces the rent to £10,032 per annum. This equates to £836 per month.

### **Conclusion**

The capping provisions of the Rent Acts (Maximum Fair Rent) Order apply and the calculation of the maximum fair rent is set out in the decision. The fair rent to be registered is not however limited by this figure because it is below the maximum fair rent of £12,322 per annum. Therefore, the fair rent to be registered is **£10,032 per annum**. In accordance with the statutory provisions, this takes effect from the **24 January 2025** being the date of the Tribunal's decision.

Detailed calculations for the capped maximum fair rent are provided on the back of the decision form.

**D Jagger MRICS Valuer Chair      24 January 2025**

## **ANNEX - 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 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.