



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

Case reference : **LON/00AN/F77/2024/0629**

Property : **40A Hertford Road, Enfield, Middlesex
EN3 5AN**

Applicants (Tenant) : **Mr William Croucher**

Representative : **None**

**Respondent
(Landlord)** : **Pevensey Estates Ltd**

Representative : **Bridgewood Management**

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

Tribunal members : **Ms P Tueje
Mr D Jagger MRICS**

Date of Reasons : **31st January 2025**

Reasons

The Tribunal determines £1,536 per quarter is to be registered as the fair rent for the above property with effect from 16 December 2024 being the date of the Tribunal's decision.

Reasons

Background

1. On 4 June 2024 the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £1,742 per quarter.
2. The rent payable at the time of the application was £1,452 per quarter effective from 30 May 2022. The landlord's application represents an increase of £290 per quarter.
3. On 31 July 2024 the Rent Officer registered a fair rent of £1,740 per quarter, effective from the 30 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).
4. By a letter dated 6 August 2024 from Mr Croucher, the tenant objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal.
5. The Tribunal issued Directions on the 17 October 2024 which set out a timescale for the proceedings.

The law

6. 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'.
7. 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 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 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).

8. 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.
9. 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 and Inspection

10. It had been agreed with the parties in advance that there would be a hearing held at 10 Alfred Place, London WC1E 7LR, to be followed by an inspection of the premises later in the day.

The Hearing

11. A hearing took place at 10.00am on the 16 December 2024 which was attended by the tenant. The Tribunal has consideration of the evidence provided by the parties, which included comparable evidence provided by the landlord of two flats in the area which were let at £1,700 and £1,550 per month. The Tribunal explained the methodology in the calculation of the fair rent and the adjustments made by the Rent Officer, being 55% from a proposed market rent.
12. The tenant confirmed the property is located on a busy road and he provided the Tribunal with a copy of an agreement which commenced on the 21 October 1958 for a period of 22 years. The agreement was full repairing and insuring (FRI) and that during this time he has been responsible for the upkeep of the property and over the years has undertaken complete refurbishment of the property including the recent installation of a new wet room.

Facts found with Inspection.

13. The Tribunal inspected the property on the 16th December 2024 in the presence of the tenant.
14. The property is a purpose built first floor maisonette which forms part of a two storey semi-detached building with brick and render elevations under a pitched and tiled roof. The property is set back on a busy road opposite Haringey College and close to local bus routes and amenities together with

Durants Park. The property is approximately 1/2 mile from Southbury train station.

15. The accommodation comprises: living room, kitchen, two bedrooms, wet room. Outside, there is a private garden and roadside parking.

Terms of the tenancy

16. The Landlord's Application for Registration of Fair Rent states the agreement commenced in 1971, but the tenant confirmed the original agreement was assigned to him. As set out above, the Tribunal accepts the 1958 agreement made the tenant responsible for insurance, structural repairs and external decorations. The tenant is also responsible for internal decorations. It is assumed the property was let unfurnished.

Condition of the Property

17. The property is in need of general refurbishment and modernisation. The windows are a mixture of timber framed single and double glazed units which are poorly fitted and require redecoration. The kitchen fittings are dated. There is central heating installed by the tenant.

Written Evidence

18. The Tribunal had copies of the Valuation Office Agency correspondence including the previous rent registration together with the calculations for the most recent registration.
19. The parties provided completed Reply Form with submissions in connection with the condition of the property and the landlord provided comparable evidence.

Valuation

20. 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 with modern kitchen and bathroom fittings.
21. Based upon the comparable evidence provided by the Landlord together with its expert knowledge of the Enfield 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 £4,800 per quarter (£1,600 per month).
22. The Tribunal's assessment of the likely market rent at £1,600 per month is broadly consistent with the two comparables provided by the landlord. The landlord's comparables consisted of a two-bedroom flat on Hertford Road, and a two-bedroom maisonette in Wickham Close (off Hertford Road). Both were advertised to let in October 2024 at £1,550 and £1,700 per month respectively.

23. The tenant did not provide any evidence of comparable properties.
24. Next, the Tribunal needs to **adjust that hypothetical rent of £4,800 per quarter** to allow for the significant differences between the terms of this tenancy, in particular, the tenant's responsibilities, for the unmodernised condition, dated sanitary fittings and kitchen units, the tenants improvements over the years, defective windows, and the lack of white goods, carpets and curtains, (disregarding the effect of the tenant's improvements and any disrepair or other defect attributable to the tenant).
25. The Tribunal has considered very carefully the information prepared by the parties.
26. Using its own expertise, the Tribunal considers that a deduction of 60% should be applied in order to take into account the terms of the tenancy, in particular that it imposes a full repairing and insuring obligation on the tenant, the tenant's improvements, and the lack of carpets, curtains and white goods. This provides a deduction of £2,880 per quarter from the hypothetical rent. This reduces the figure to £1,920 per quarter.
27. 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

28. 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.
29. 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 £384 and therefore reduces the rent to £1,536 per quarter.

Conclusion

30. The fair rent to be registered is not limited by the capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999, because it is below the maximum fair rent of £1,664 per quarter. The calculation for this figure are shown on the Notice of the Tribunal Decision. Therefore, the fair rent to be registered is **£1,536 per quarter**. In accordance with the statutory provisions, this takes effect from the **16 December 2024** being the date of the Tribunal's decision.

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

Name: Judge P Tueje

Date: 31st January 2025

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.**

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