



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

Case reference : **LON/00AN/F77/2025/0011**

Property : **16C Batoum Gardens, London W6 7QD**

Applicants (Tenant) : **Mr Peter Best**

Representative : **None**

**Respondent
(Landlord)** : **Notting Hill Genesis**

Representative : **None**

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

Tribunal members : **Mr D Jagger MRICS
Mr L Packer**

Date of Reasons : **24 February 2025**

Reasons

The Tribunal determines £212.50 per week is to be registered as the fair rent for the above property with effect from 24 February 2025 being the date of the Tribunal's decision.

The reasons for this decision are set out below.

Reasons

Background

1 On 10 October 2024 the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £185.43 per week for the property.

2 The rent payable at the time of the application was £136.35 per week, effective from 24 April 2018.

3 On 7 November 2024 the Rent Officer registered a fair rent of £211.00 per week, effective from that date. 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’).

4 By an email dated 19 November 2024 from Mr Best, the tenant objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal. In the tenant’s Reply Form, the tenant requested a hearing to consider this matter.

5 These reasons address in summary form the key issues raised by the parties. They do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal’s view, are fundamental to the determination.

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’.

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.*”

The Hearing.

7 At the Tenant’s request a hearing took place at 2pm on the 24 February 2025 at 10 Alfred Place London WC1E 7LR in the presence of the tenant. The landlord did not attend. The tenant was given the opportunity to elaborate on his written submissions and the Tribunal explained to the tenant the methodology for the calculation of the capped rent. The tenant provided the Tribunal evidence that that current rent of £136.35 commenced on the 19 August 2024 and it is assumed this runs through until 18 August 2025.

The Property

8 In accordance with current policy, the Tribunal did not inspect the property, but did view it externally via information obtained from publicly available online platforms. The property is a self-contained converted flat situated on the second floor of a mid terrace Victorian building. Accommodation consists of

reception room, kitchen bedroom, bathroom and WC. The property is located in an established road close to local amenities and public transport.

9 The property has gas central heating timber single glazed windows. Floor coverings, curtains and white goods are provided by the tenant. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have an expired Energy Performance Certificate (EPC) Rating of C69.

Terms of the tenancy

10 The Tribunal issued Directions on the 22 January 2025. A copy of the tenancy agreement was not provided to the Tribunal. The landlord states in the application for registration of fair rent, the periodic protected tenancy commenced on the 6 January 1992 and the first tenancy began before 15 January 1989. It is assumed this 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.

Evidence

11 The Tribunal had copies of the Valuation Office Agency correspondence including the rent registers effective 24 April 2018 and 7 November 2024 together with the calculations for the most recent registration.

12 The tenant submitted a statement challenging the proposed increase in rent together with a completed Reply Form. The landlord did not provide any written submissions, and no comparable rental evidence was provided by the parties.

Valuation

13 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.

14 Based upon the evidence provided by the Tenant together with its expert knowledge of the Brook Green area. The Tribunal considers that the open market rent for the property if it were in good marketable condition with reasonably modern kitchen and bathroom fittings, modern services, carpets and curtains and white goods supplied by the landlord would be **£415** per week (£1,800 per month)

15 Next, the Tribunal needs to adjust that hypothetical rent of £415 per week to allow for the differences between the terms of this tenancy, 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).

16 The Tribunal has considered very carefully the information prepared by the Tenant. Using its own expertise, the Tribunal considers that deductions of 20% should be applied in order to take into account the terms of the tenancy, the condition of the property and the lack of carpets, curtains and white goods. This provides a deduction of £83 per week from the hypothetical rent. This reduces the figure to £332 per week.

17 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

18 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.

19 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 area. This provides a figure of £66.40 and therefore reduces the rent to **£265.60 per week**.

Conclusion

20 The capping provisions of the Rent Acts (Maximum Fair Rent) Order apply and therefore the above figure does not apply. The fair rent in accordance with the attached calculations is **£212.50 per week**.

21 Therefore, this is the fair rent to be registered limited by the Rent Acts (Maximum Fair Rent) Order 1999 with effect from the 24 February 2025 being the date of the Tribunal's decision.

22 Detailed calculations for the capped maximum fair rent are provided attached to the decision form.

23 The tenant Mr Best brought his case to the Tribunal because of his anxiety that he could face such a large increase as the £211 a week determined by the Rent Officer. The Tribunal reminded Mr Best that the figure which both the Rent officer and the Tribunal determined was the *maximum* allowable rent; that it was open to a landlord to charge a lower amount of rent; and that this was often the case with social landlords - as Notting Hill Genesis had indeed done with Mr Best's rent in the past. Moreover, it appeared that Mr Best's rent was in any event fixed at the present £136.35 until 18 August 2025, under Mr Best's current tenancy agreement.

24. The Tribunal suggested to Mr Best that when he had received the Tribunal's decision, he contact Notting Hill Genesis and seek its assurance about the *actual* rent it would expect to set after 19 August 2025, as distinct from the maximum allowable amount.

D Jagger MRICS Valuer Chair

24 February 2025

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 rpslondon@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.