



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

Case Reference : **LON/00AG/F77/2024/0698**

Property : **Flat 3, 28 John Street, London,
WC1N 2BL**

Applicant : **M Yale Ltd
(Landlord)**

Representative :

Respondent : **David J White
(Tenant)**

Representative : **None**

Type of Application : **S.70 Rent Act 1977 – Determination
of a new fair rent**

Tribunal Members : **Judge Tildesley OBE
Alison Flynn MA MRICS**

**Date and venue of
Meeting** : **21 February 2025
10 Alfred Place, London WC1E 7LR**

Date of Decision : **27 February 2025**

REASONS FOR DECISION

Summary of the Decision

- 1 The Tribunal determines that the amount of rent to be registered as the fair rent for Flat 3, 28 John Street, London, WC1N 2BL is £10,920.00 per annum to take effect from the date of the decision (27 February 2025).

Background

- 2 By an application dated 27 August 2024, the Landlord applied to the Rent Officer for registration of a fair rent. The fair rent registered at the time of the application was £14,883.00 with effect from 23 November 2022. The Landlord requested a rent of £18,000.00 per annum
- 3 With effect from 23 November 2024, the Rent Officer registered a fair rent of £14,040.00. There was no service charge element. On 4 November 2024 the Landlord objected to the new fair rent. The Tribunal was notified of this objection and of the request for a fresh determination of the rent.

Directions

- 4 On 12 December 2024 the Tribunal directed it would seek to decide the fair rent for the property during the fourteen days following 10 February 2025 based on the written submissions by the parties unless a party requested a hearing. The Tribunal also required the parties to make written submissions.
- 5 The Landlord made no representations and did not request a hearing. The Landlord indicated on 13 December 2024 that it was content for the Tribunal to determine the fair rent on the papers it had.
- 6 On 10 January 2025 Mr White, the Tenant, requested an inspection of the property and a hearing. He also submitted written representations.
- 7 On 20 January 2025 the Tribunal informed the parties that the hearing would take place on the 21 February 2025 at 10.00 and an inspection would be made in the afternoon between 2pm and 2.30pm.
- 8 Mr White attended the hearing on 21 February 2025 with his wife. The Landlord did not appear. The Tribunal inspected the property after the hearing at around 2pm in the presence of Mr White and Mrs White. The Landlord did not attend the inspection.

The Evidence

- 9 Mr White has lived at the property for 43 years since 1981. He is now 78 years old and occupies the property with his wife. Mr White informed the Tribunal that the character of the area in which the property is situated has changed out of all recognition from when he first moved in. Mr White explained that John Street was predominantly a business area but over time the area has become much more residential. The building in which the flat is situated originally comprised the offices of

a Chartered Surveyor. John Street is lined with Georgian Townhouses and is in the heart of London's historic Bloomsbury district.

- 10 Flat 3 is on the third floor of a Georgian Townhouse which was constructed in the 1760's and situated on the corner of John Street and Northington Street. Access to the flat is gained by ascending 64 steps of the internal common staircase. The Flat has no balcony and no outside area. There is no car parking apart from metered bays or Camden Residents Parking.
- 11 The property is a one bedroom flat organised over two levels. The living areas of the Flat taper inwards to the rear of the Townhouse because of its corner position. The result is that none of the rooms are a regular shape apart from the bedroom. Above the dining area and kitchen there is a flat roof.
- 12 The front door to the Flat opens into a small hallway which has a storage cupboard immediately facing the door. To the left of the hallway is the short entrance to the bathroom with a cupboard on the right housing a water tank. The bathroom comprises a toilet, a cast iron bath, and a sink. The bedroom is adjacent to the entrance to the bathroom, and has two windows to the front overlooking John Street. The living room is on the right of the hallway and has a window overlooking Northington Street. At the end of the living room, there are a steep set of five steps which descend into the dining area with the kitchen to the right. A wooden ladder is affixed to the ceiling of the kitchen which operates as a fire escape onto the flat roof above the kitchen.
- 13 Unlike the other flats in the Townhouse which have been converted to modern standards by the current landlord, Flat 3 remains effectively in the same condition as it was when it was first let to Mr White in 1981. The Flat does not have the benefit of a central heating system. Heating is provided by standalone portable heaters. An Ascot water heater supplies the hot water to the kitchen, whilst the hot water to the bathroom is achieved through an immersion heater in the water tank. The Tribunal understands that the toilet and the bath have not been replaced during Mr White's tenancy. The sink in the kitchen is also the original one, and is the only fitting in the kitchen provided by the Landlord. Mr White has supplied the cupboards and white goods in the kitchen, and the carpets and curtains throughout the Flat.
- 14 The Flat retains its original single glazed windows in wooden sashed frames. None of the windows open except for the small window in the dining room which cannot be closed and lets in rain. Mr White explained that in the summer months the atmosphere in the bedroom in particular becomes unbearable because of the lack of means to ventilate the internal rooms by opening the windows. The internal doors in the Flat do not close properly and have been distorted through the passage of time.

- 15 The Flat suffers from significant disrepair. There are series of large structural cracks throughout the Flat but particularly beneath the windows. Mr White stated that the structural cracks were caused by the building works carried out on the conversion of the other flats in the Townhouse. There was evidence of water ingress through the flat roof above the dining area. According to Mr White, the water ingress becomes pronounced when the gutters are full with debris. Mr White said that the taps to the bath have not worked for some time, which means that the bath is filled with water by a hose from the basin. Mr White explained that the landlord's plumber said he was unable to replace the taps without breaking the bath which was cast iron.
- 16 The Tribunal observed that the Flat had just one smoke detector which is located in the hall. Mr White added that there is a fire extinguisher in the kitchen. The Tribunal understands that the Landlord rewired the electrical supply in the Flat and installed a new consumer unit some five years ago.
- 17 Mr White qualifies for the protections provided by the Rent Act 1977 in respect of security of tenure, succession and a fair rent. The Rent Register records the allocation of repairs "as agreed between the parties subject to section 11 of the Landlord and Tenant Act 1985" which imposes repairing obligations on the Landlord for the structure and exterior of the building and for the installations in the Flat. Mr White said that he is aware that the Landlord would prefer to obtain possession of the Flat to complete the modernisation of the Townhouse and increase the revenue potential but insisted that this is his home and has been for 43 years since 1981 and that he wanted to continue living there as long as he is able.
- 18 Mr White informed the Tribunal that there had been no previous determination of a fair rent by a Tribunal. Also the Rent Officer had never inspected the property except on the last occasion.

Consideration

- 19 When determining a fair rent the Tribunal, in accordance with section 70 of the Rent Act 1977 must have regard to all the circumstances including the age, location and state of repair of the property. The Tribunal, however, 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 or any predecessor in title under the regulated tenancy, on the rental value of the property.
- 20 In *Spath Holme Ltd v Chairman of the Greater Manchester Rent Assessment 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).
- 21 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are much more than the 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 it is of modernised properties. The Tribunal, therefore, have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on the Tribunal's own knowledge and experience, whenever it can.
- 22 In this case the Landlord has effectively chosen not to participate in the proceedings and provided no evidence apart from its original application to the Rent Officer for registration of a fair rent which contained minimal information and no evidence of rent for comparable lettings. Mr White has given evidence of the history of the letting and the condition of the Flat. The Tribunal's inspection of the property and Flat confirmed Mr White's evidence in respect of the condition of the Flat.
- 23 The Tribunal has before it brief details of the Rent Officer's assessment of the fair rent. The Tribunal is not bound by the Rent Officer's findings and is entitled to reach its own decision based upon its own findings. The Tribunal notes that the Rent Officer has calculated the rent weekly in order to compute the annual rent. The Tribunal adopts the same convention.
- 24 The Tribunal starts with the assessment of the open market rent. As explained earlier the parties have supplied no evidence of rents for comparable lettings. The Tribunal notes that the Rent Office adopted a figure of £675 per week for the market rent. The Tribunal, however, as an expert Tribunal relying on its own general knowledge of market rent levels in and around the London Borough of Camden, considers that the rent for a similar flat in good condition let on normal Assured Shorthold Tenancy (AST) terms would be £750 per week. This gives the appropriate starting point from which to determine the fair rent of the Flat as it falls to be valued.

- 25 The Tribunal finds that the Flat does not enjoy the same facilities as would be expected in a flat let on the usual terms with an open market rent. The Tribunal is satisfied that the facilities in the Flat are substantially below the norm. The Flat has no central heating, inadequate fire protection particularly as it is on the third floor, and the Tenant rather than the Landlord has provided the kitchen units, white goods, carpets, and curtains. The facilities that are there and provided by the Landlord: the kitchen sink, the ascot water heater, and the bathroom suite are antiquated and require replacement.
- 26 The Tribunal finds that the Flat is not in a condition that would be expected in a flat let on the usual terms with an open market rent. The Tribunal is satisfied that the Flat is in a substantial state of disrepair as evidenced by the numerous structural cracks present throughout the Flat, the incidences of water ingress in the dining room, the state of the window frames including the inability to open them, and the seized water taps in the bathroom.
- 27 The Tribunal finds that the location of the Flat on the third floor which requires a climb of 64 steps and its internal layout of tapering rooms organised on two levels with steep steps between the levels would have a depressing effect on the level of rent that could be achieved for a flat let on the usual terms with an open market rent.
- 28 The Tribunal is satisfied that the issues of lack of facilities, substantial disrepair and the inadequate layout and location of the Flat would result in a substantial deduction from the open market rent. The Tribunal considers it appropriate to express the deduction as a global percentage which in this case would be 65 per cent of the market rent equivalent to £487.50. This leaves an adjusted rent of £262.50 per week.
- 29 The Tribunal next considers the element of scarcity and whether demand exceeded supply. The Tribunal applying its expertise and general knowledge finds that there is scarcity in the locality of Camden for this type of property and makes a further deduction of 20 per cent from the adjusted market rent. This provides a fair rent of £210 per week (£262.50 -£52.50) which amounts to a rent of £10,920.00 per annum. This is below the Maximum Fair Rent Cap of £17,127.50 so no further adjustments are necessary.

Decision

- 30 The Tribunal determines that the amount of rent to be registered as the fair rent for Flat 3, 28 John Street, London, WC1N 2BL is **£10,920.00 per annum** to take effect from the date of the decision (27 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 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.