



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

Case Reference	:	LON/00AW/F77/2024/0694
Property	:	113 b Warwick Road London SW5 9EZ
Applicant	:	Notting Hill Genesis (Landlord)
Representative	:	None
Respondent	:	Mr & Mrs Ajie (Tenants)
Representative	:	None
Type of Application	:	S.70 Rent Act 1977 – Determination of a new fair rent
Tribunal Members	:	Mr N. Martindale FRICS
Date and venue of Meeting	:	28 January 2025 First Tier Tribunal (London) HMCTS 10 Alfred Place, London WC1E 7LR
Date of Decision	:	28 January 2025

REASONS FOR DECISION

Background

- 1 By an application, the landlord applied to the Rent Officer for registration of a fair rent at £207.24 pw. The rent stated as payable at the time of the application was said to be £150.45 pw. The registered rent at that time was £158.50 pw. There was no separate variable service charge included.
- 2 With effect from 22 October 2024, the Rent Officer registered a fair rent of £224 pw, there was no variable service charge. A party objected

to the new fair rent. The First Tier Tribunal was notified of this objection and a request for a fresh determination of the rent.

Directions

- 3 Directions dated 6 December 2024 were issued by the Tribunal, for case progression. Neither party requested a hearing.

Representations

- 4 Standard Reply Forms were issued by the Tribunal prior, completed versions were received back. They set out brief details of the Property.
- 5 The Tribunal determined the new rent with the assistance of such written statements from the parties as were received. Neither party provided evidence of properties in the locality, to let or let.

Inspection

- 6 The Tribunal did not inspect the Property. The Tribunal was however able to externally view the Property from Google Streetview and other online records (@ August 2012). The Property appeared to date from around the late nineteenth century set within a 4 level building. The Property appeared to be subdivided from a former family house into 3 or 4 flats, the Property being one of them.
- 7 The building is set in an established residential area within the RB Kensington and Chelsea. There are no ancillary areas. The Property is accessed from a communal entrance off the street. The road is a busy no stopping - 'Red Route' with 3 lanes of One Way traffic passing.
- 8 The Property accommodation is on 2 levels, ground and first floor. The Property includes 4 rooms, bathroom, WC, kitchen, the living room being on the ground floor with an internal staircase. From an external view the Property appeared to be in fair condition. The front elevation is fair faced brickwork with rendered reveals to window openings, with what appear to be single glazed timber double hung sash windows. There is full central heating. There is no mention of furniture, carpets or white goods being provided by the landlord. The tenancy began 25 August 1997.

Law

- 9 When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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.

- 10 In *Spath Holme Ltd v Chairman of the Greater Manchester etc. 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).
- 11 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that 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 us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 12 On the evidence of the comparable lettings and our own general knowledge of market rent levels in and around RB Kensington & Chelsea, the Tribunal accepts that the Property would let on normal Assured Shorthold Tenancy (AST) terms, for £900 per week. This then, is the appropriate starting point from which to determine the rent of the Property as it falls to be valued.
- 13 A normal open market letting would include carpets, curtains and "white goods", but these are assumed provided by the tenant. There is no double glazing especially with the busy noisy dusty road outside. Deductions for these shortcomings amount to £150 pw, leaving the adjusted market rent at £750 pw.
- 14 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was scarcity in the locality for this type of property and makes a further deduction of £150 pw from the adjusted market rent.
- 15 The fair rent to be registered on this basis alone would be £600 pw but, the new rent is limited by the statutory Maximum Fair Rent Cap calculation. The MFRC limits any increase to the change in RPI (set

two months prior at each date), between the date of the last registration of a fair rent and the current, plus 5%. The calculations are shown in the MFR form and this caps the new fair rent at £231 pw. The fair rent is therefore capped and registered at this figure.

- 16 The Rent Act makes no allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent registered. The landlord is entitled but, not compelled, to charge the tenants rent at the registered figure from the effective date. However the landlord may not charge more than the fair rent.

Chairman N Martindale FRICS

Dated 28 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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.

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