



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

**Case Reference** : **LON/00AW/F77/2024/0676**

**Property** : **Flat 2, 6A Gregory Place, London, W8  
4NG**

**Applicant** : **Barbara Head**

**Representative** : **Not represented**

**Respondent** : **Rajesh Kumar Sharma**

**Representative** : **Not represented**

**Date of Objection** : **4<sup>th</sup> October 2024**

**Type of Application** : **Determination of registered rent  
under section 70 Rent Act 1977**

**Tribunal** : **Judge Tueje  
Mrs A Flynn MA MRICS**

**Venue** : **10 Alfred Place, London, WC1E 7LR**

**Date of hearing** : **20<sup>th</sup> January 2024**

**Date of Extended  
Reasons** : **14<sup>th</sup> February 2025**

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**DECISION**

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## **Background**

1. By an application dated 19<sup>th</sup> July 2024, the landlords applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £250 per week.
2. The rent payable at the time of the application was £121.50 per week, effective from 8<sup>th</sup> July 2016.
3. On 23<sup>rd</sup> August 2024 the Rent Officer registered a fair rent of £181.50 per week, effective from the 30 August 2024.
4. By an e-mail from the tenant sent on 22<sup>nd</sup> September 2024, the tenant objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal.
5. Following receipt on 19<sup>th</sup> November 2024 of the objection from the Tenant to the determination of a fair rent by the Rent Officer, the Tribunal issued directions dated 22<sup>nd</sup> November 2024.
6. The Tribunal subsequently notified the parties that the application was listed for a hearing on 20<sup>th</sup> January 2025, with an inspection on the same day, after the hearing.

## **The law**

7. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, “the Act”, 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.
8. In *Spath Holme Ltd v Greater Manchester and Lancashire Rent Assessment Committee (1995)* and *Curtis v London Rent Assessment Committee [1999]*, the Court of Appeal emphasised that ordinarily a fair rent is the market rent for the property discounted for 'scarcity'. This is 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.
9. The Tribunal is aware that *Curtis v London Rent Assessment Committee (1999) QB.92* is a relevant authority in registered rent determination. This authority states where good market rental comparable evidence i.e., assured shorthold tenancies is available enabling the identification of a market rent as a starting point it is wrong to rely on registered rents. The decision stated: “*If there are market rent comparables from which the fair rent can be derived why bother with fair rent comparables at all*”.

10. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
11. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.
12. The Upper Tribunal in *Trustees of the Israel Moss Children's Trust v Bandy [2015]* explained the duty of the First Tier Tribunal is to present comprehensive and cogent fair rent findings. These directions are applied in this decision.
13. *The Rent Acts (Maximum Fair Rent) Order 1999* applies to all dwelling houses where an application for the registration of a new rent is made after the date of the Order and there is an existing registered rent under part IV of the Act. This Order restricts any rental increase to 5% above the previously registered rent plus retail price indexation (RPI) since the last registered rent.
14. The Tribunal now makes its determination under the provisions of the Rent Act 1977.
15. In reaching its determination, the Tribunal considered the written submissions provided by the tenant (see paragraphs 17.3 and 17.4 below), the written and oral information provided by the landlords.

### **The Hearing and Inspection**

16. Only the respondent attended the hearing, the applicant did not. Although the respondent's application for registration of a fair rent sought £250 per week, he confirmed he does not seek to challenge the rent officer's determination of £185.50 per week.
17. Amongst a number of documents submitted by the parties in respect of the application were the following:
  - 17.1 The rent officer's calculations in respect of the rent registered on 23<sup>rd</sup> August 2024.
  - 17.2 The rent register showing the previous rent registered on 8<sup>th</sup> July 2016 being £121.50 per week.
  - 17.3 The tenant's e-mail sent on 22<sup>nd</sup> September 2022 objecting to the new rent, which reads:

*I have received your registration rent with proposal of 185,- per week. I object to such a big increase. I have spend a lot of money to improve this place. I bought all equipment for kitchen : electric cooker, extraction hood, fridge-freezer, sink, shelves, table and*

*chairs etc. In the bathroom all items bath, toilet, washing base, hot water boiler, wall tiles I bought and paid for installation. Also I repaired floor joints and laid floor panels.*

- 17.4 An e-mail from the applicant sent on 22<sup>nd</sup> September 2024 complaining that the roof was leaking, which had been reported to the landlord, who had not carried out repairs during the ensuing six months.
18. After the hearing, the Tribunal visited the property, the landlords did so too as they intended to be present during the inspection. However, no one answered the door at the property when the Tribunal visited.
19. The Tribunal left its card confirming the visit which invited the applicant to contact the Tribunal. The applicant has not contacted the Tribunal regarding non-attendance at the hearing or being unavailable to provide access for the inspection.
20. Absent an inspection, we were unable to view the condition of the property. However, we note that the landlord did not dispute the information contained in the tenant's e-mail sent on 22<sup>nd</sup> September 2024.

### **The property**

21. The property is a one bedroom second floor flat, within a building containing a total of 4 flats. It is located on a quiet mews, around ¼ mile from Kensington High Street underground station and shops; it has no residents' parking.
22. Externally, the property appeared to be well maintained. As stated, the Tribunal was unable to inspect the interior. The landlords could not provide any current information regarding the interior, having visited the property when they purchased it in January 2020, but they have not had access to the property since then.

### **Terms of the tenancy**

23. The landlord's application for Registration of Fair Rent states the tenancy agreement began on 25<sup>th</sup> March 1987. It states the landlord is responsible for structural and external repairs, and the tenant is responsible for minor repairs and redecoration.
24. The landlords do not have a copy of the tenancy agreement, and a copy was not provided to the Tribunal.

### **Valuation – An Overview**

25. 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. Neither party provided documentation showing comparable properties to let in the area. We determined the open market rent based on our own expert, general knowledge of rental values in the area, assisted by having visited the location. We consider that the open market rent for the property in good tenantable condition would be in the region of £450 per week.

26. This hypothetical rent is adjusted as necessary to allow for the differences between the terms and condition considered usual for such a letting and the condition of the actual property at the date of the inspection. Any rental benefit derived from Tenant's improvements is disregarded. It is also necessary to disregard the effect of any disrepair or other defects attributable to the Tenant or any predecessor in title.
27. The provisions of section 70(2) of the Rent Act 1977 in effect require the elimination of what is called "scarcity". The required assumption is of a neutral market. Where a Tribunal considers that there is, in fact, substantial scarcity, it must make an adjustment to the rent to reflect that circumstance. In the present case neither party provided evidence with regard to scarcity.
28. The Tribunal then considered the decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee [2002] EWHC 835 (Admin)* which required it to consider scarcity over a wide area rather than limit it to a particular locality. West London is now considered to be an appropriate area to use as a yardstick for measuring scarcity and it is clear that there is a substantial measure of scarcity in West London.
29. Assessing a scarcity percentage cannot be a precise arithmetical calculation. It can only be a judgement based on the years of experience of members of the Tribunal. The Tribunal therefore relied on its own combined knowledge and experience of the supply and demand for similar properties on the terms of the regulated tenancy (other than as to rent) and in particular to unfulfilled demand for such accommodation. In doing so, the Tribunal found that there was substantial scarcity in the locality of West London and therefore made a further deduction of 20% from the adjusted market rent to reflect this element.
30. The valuation of a fair rent is an exercise that relies upon relevant market rent comparable transactions and property specific adjustments. The fair rents charged for other similar properties in the locality do not form relevant transaction evidence.

### **Valuation of the Property**

31. As stated, having considered our own expert, general knowledge of rental values in the area, we consider that the open market rent for the property in good tenantable condition would be in the region of £450 per week. From this level of rent we have made adjustments to reflect the condition

of the property, the terms of the tenancy, and that the landlords have not supplied any white goods, carpets or curtains.

32. The Tribunal has also made an adjustment for scarcity (see paragraph 29 above).

33. The valuation is shown below:

Market Rent	£450 per week
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Less adjustments for the:

Tenant's works carried out to the bathroom	5%
Tenant's repair liability under the tenancy	5%
No white goods provided by the landlord	5%
No floor coverings/curtains provided by the landlord	5%
Flooring provided by the tenant (floor joists and floor panels)	5%

Total deductions	25%	or	(£112.50)
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Adjusted market rent	£337.50
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<i>Less</i> Scarcity	approx. 20%	(£67.50)
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£270.00

### **Decision**

34. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is the lower of either the capped fair rent: the calculation of the capped rent is shown on the decision form, or the fair rent decided by the Tribunal, as set out above.

35. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £270.00 per week. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at £185.50 per week. In this case the lower rent of £185.50 per week is to be registered as the fair rent for this property.

**Tribunal Judge:** Judge Tueje

**Date:** 14<sup>th</sup> February 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.

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