



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

Case Reference : **FR/LON/00AC/F77/2024/0680**

Property : **15 Union Street, London EN5 4HY**

Tenant : **Mrs Kinsella**

Landlord : **Cane Development Ltd.**

Date of Objection : **21 October 2024**

Type of Application : **Section 70, Rent Act 1977**

Tribunal : **Mrs S Phillips MRICS Valuer Chair
Mr K Ridgeway MRICS Valuer
Member**

Date of Reasons : **11 March 2025**

DECISION

The sum of £880.00 per month will be registered as the fair rent with effect from 11 March 2025, being the date, the Tribunal made the Decision.

FULL REASONS

Background

1. On 23 August 2024 the Landlord applied to the Rent Officer for registration of a fair rent of £1,450 per month for 15 Union Street, London, EN5 4HY (the subject property).
2. The rent was previously registered on 29 May 2020 at £144.00 per week with effect from 29 May 2020. On 14 October 2024 the Rent Officer registered a fair rent of £725 per month with effect from 14 October 2024. This rent appears to have been the rent determined under section 70 of the Rent Act 1977 and was below the capped rent as provided for by The Rent Acts (Maximum Fair Rent) Order 1999.
3. By an email dated 21 October 2024 the Tenant objected to the rent determined by the Rent Officer and the matter was referred to the First-tier Tribunal.
4. The Tribunal issued Directions on 27 November 2024 setting out the timetable and the steps the parties were required to take in preparation for the determination of this case.

The Law

5. When determining a fair rent the Tribunal, in accordance with section 70 of the Rent Act 1977 (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.
6. In *SpathHolme 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 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).
7. The Rent Acts (Maximum Fair Rent) Order 1999 (the 1999 Order) provides the framework that places a ceiling on the maximum rent that can be registered. The calculation is based upon a formula that applies an increase in the monthly United Kingdom Index of Retail Prices to the previously registered rent.

Hearing and Evidence

8. A hearing was held on 31 January 2025 at 10, Alfred Place, London, WC1E 7LR. At the hearing Mr Kinsella (the Tenant's son) attended the hearing on his mother's behalf. Written confirmation of Mrs Kinsella consenting to her son representing her was sent through to the Tribunal in a letter dated 14 October 2014. The Landlord did not attend the hearing.

Tenant's Submissions

9. Mr Kinsella began by explaining that the property has changed hands (i.e. the Landlord) and that from the beginning they were made to feel that they were not interested in maintaining the property.
10. Issues relating to the leaking roof, water ingress and damp throughout the property was highlighted as a large part of the disrepair being claimed by the Tenant. Mr Kinsella referred to the photos evidencing this which were sent through to the Tribunal.
11. Whilst the Landlord installed a new bathroom in the property, the quality of the installation was questionable as Mr Kinsella drew the Tribunal's attention to areas of the plaster being blown.
12. The current kitchen that is present at the property was installed by Tenant installed the kitchen in 2013. It was also confirmed that the Tenant installed the central heating system at the property.
13. The Landlord also installed new double-glazed windows throughout the property, but the finish of the work was poor. This has led to the plaster around the window falling away or cracking.

14. More recently, one of the fences in the rear garden was blown down and despite the Landlord knowing about this for some weeks now, it remains fallen.
15. The Landlord put artex on the ceiling in the master bedroom in October / November 2024. The Tenant believes that this was trying to hide the damp and water ingress that is being suffered throughout the property. The signs of damp and water ingress and beginning to reappear through these works.
16. Whilst the Tenant understands that there needs to be a fair rent in place, the property is in a state of disrepair that the Landlord has shown little to no interest in wanting to resolve.
17. The Tenant also provided documentation and submissions as part of the Reply Form to the Tribunal which also included photographs of the property and background to the on-going roof leak issue at the property.

Landlords' Submissions

18. The Landlord was not present at the hearing.
19. However, the Landlord has provided written documentation as part of their Reply Form including a property valuation report which assesses the values in the local area and documentation setting out the works that the Landlord has undertaken on the property to try and rectify the leaking roof issue.

Inspection

20. The Tribunal inspected the property on 31 January 2025. The property is a three-bedroom end terraced house with a rear garden. It is of brick and tiled roof construction with white rendering to the front and pebble dash rendering to the side and rear. The property includes separate living and dining rooms on the ground floor, together with the kitchen which then leads out into the well-sized garden.
21. Both the living and dining rooms have double glazed windows. The installation appears poor given the finish around the window frames and resulting plastering falling away from some areas around the windows.

22. The kitchen is located at the rear of the property and is dated. It has a ceramic tiled floor and wooden back door with single glazed glass that leads out into the garden. The window in the kitchen is double-glazed.
23. The back garden is a good size containing mature conifer trees. At the time of inspection one of the side fences had fallen and was still in a state of disrepair.
24. The hallway leads up to the first floor. There is evidence in the hallway of leaking water ingress and signs of damp. On the first floor the three-bedrooms and family bathroom are located.
25. The third bedroom houses a single bed together with one piece of bedroom furniture. Whilst the window is double glazed the finish around the frame when installed is poor and has led to plaster falling away. The room is carpeted with no central heating.
26. The second bedroom is a large size room located at the rear of the property which has been carpeted and includes a double-glazed window. The wall facing the external of the property has signs of damp and recent water ingress.
27. The family bathroom is accessed via the second bedroom. It is carpeted and includes a bath with a shower heads, sink with mixer tap and a toilet. The airing cupboard is also located in the bathroom.
28. The master bedroom is at the front of the property and of a very good size. The ceiling is of artex and has signs of damp appearing. The room is carpeted. The window is double-glazed but the installation appears to be poor due to the cracking that is visible around the window. The built-in wardrobe has significant damp with a large hole present which appears to be because of the plaster deteriorating.
29. The basement was viewed last due to the condition of the area. There are significant signs of deterioration of timber joists in the area and significant damp throughout the area. Due to the condition the area is not used by the Tenant.
30. The Tribunal viewed the external side wall of the property which appeared to show signs of damp together with a hole in the soffit. Where windows were not double glazed the paint was flaking around the frames.

Determination and Valuation

16. The Tribunal initially needs to determine 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. In doing this, the Tribunal will consider the rental value of the property and will not the personal circumstances of the Tenant, as that is not a factor envisaged by the Act.

17. The evidence provided by the Landlord showed an average rental price for a terraced property in this area of £2,318 per month. When considering this together with the Tribunal's own expert knowledge of rental values in the area, the Tribunal consider an amount of £2,200 per month reflective of the open market rent.

18. The next aspect to be considered is the issue of scarcity. The Tribunal was not provided with any specific evidence on this issue. However, the issue of scarcity is considered on the basis of the number of properties available to let and considering the demand for such properties and over a really large area. Neither party provided any specific evidence in respect of scarcity. Therefore, using our knowledge and experience we consider that in the wide geographical area of Greater London there is an imbalance between supply and demand and this impacts upon rental values. Accordingly, we make a deduction for scarcity of approximately 20%. The full valuation is shown below.

Market Rent		£/month 2,200
<i>Less</i>		
Damp throughout the property) 10%	
Condition of basement) 5%	
Unmodernised kitchen) 10%	
Unmodernised bathroom) 5%	
No curtains or carpets) 5%	
No provision of white goods) 5%	
Tenant's repair liability) 5%	
Installation quality of windows) 5%	
		<u>1,100</u>
		1,100
<i>Less</i>		
Scarcity	approx. 20%	<u>220</u>
		880

19. The Tribunal determines a sum of £880 per month for the open market rent value of the property.

Decision

20. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £880.00 per month. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at £1,045.00 per month. The calculation of the capped rent is shown on the decision form. In this case the lower rent of £880.00 per month is to be registered as the fair rent for this property.

21. Accordingly, the sum of £880.00 per month will be registered as the fair rent with effect from 11 March 2025 being the date of the Tribunal's decision.

Chairman: Mrs S Phillips MRICS

Date: 11 March 2025

APPEAL PROVISIONS

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 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).