



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

Case Reference : **LON/00AZ/F77/2025/0012**

Property : **6 Gunnell Close
High Level Drive
Sydenham
London SE26 6XQ**

Applicant : **Ms M Cole (Tenant)**

Representative : **None**

Respondent : **The Hyde Group (Landlord)**

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 : **18 March 2025
First Tier Tribunal (London)
HMCTS 10 Alfred Place, London
WC1E 7LR**

Date of Decision : **18 March 2025**

REASONS FOR DECISION

Background

- 1 By an application RR1 of 16 September 2024, the landlord applied to the Rent Officer for registration of a fair rent. The rent stated as registered and payable at the time of the application was said to be £130.50 pw (including £7.99 pw service charge).

- 2 With effect from 7 November 2024 the Rent Officer registered a new fair rent of £204 pw including a service charge equivalent to £1.30 per week. The tenant 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 were issued on 22 January 2025 by the Tribunal, for case progression. Neither party requested a hearing.

Representations

- 4 Reply Forms were issued prior. The Tribunal determined the new rent with the assistance of such written statements from the parties as were received and for which the Tribunal is grateful.

Inspection

- 5 The Tribunal did not inspect the Property. The Tribunal was however able to externally view the Property from Google Streetview (@ August 2022). The Property appeared to date from the 1980's in a new established residential area of housing of approximately the same age adjacent. Gunnell Close is a side turning with relatively light vehicle traffic.
- 6 Externally the Property forms part of a short terrace of almost identical 2 level houses. The Property externally appears in good condition for its age.
- 7 The accommodation is set on 2 levels and comprises, ground floor – kitchen and living room; first floor - 2 rooms, WC, bathroom. There is full gas fired central heating. The windows appear to be plastic frames and double glazed.
- 8 There are communal gardens and nominated off road car parking to the front. There are no obvious on road parking restrictions. The house has its own garden.
- 9 The main roof is double pitched, single lap concrete tiles. The building is of brick, fair faced with a small front ground floor bay with sheet metal roof. Access is off street level a little above the parking area.
- 10 The tenancy began 27 September 1993. Carpets and curtains and white goods are assumed provided by the tenant, even if not initially. The kitchen and bathroom are also assumed to be basic but functional, only.

Law

- 11 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.

- 12 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).
- 13 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.
- 14 On the evidence of the comparable lettings and our own general knowledge of market rent levels in and around Lewisham, the Tribunal accepts that the Property would let on normal Assured Shorthold Tenancy (AST) terms, for £400 per week. This then, is the appropriate starting point from which to determine the rent of the Property as it falls to be valued.
- 15 A normal open market letting would include carpets, curtains and "white goods", but after grant in the 1990's it is assumed that there are in effect provided by the tenant as the norm for public housing provision. The Tribunal assumes the kitchen and bathroom, whilst functional, are by now only basic. Deduction for these various shortcomings amounts to £80 pw, leaving the adjusted market rent at £320 pw.

- 16 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 of Lewisham for this type of property and makes a further deduction of 20% from the adjusted market rent.
- 17 The fair rent to be registered on this basis alone would be £265 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 £194.30 per week including a current service charge of £1.30 per week. The fair rent is therefore capped and registered at £194.30 per week.
- 18 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 tenant a rent at the registered figure from the effective date and may charge a lower figure from that date. However the landlord may not charge more than the fair rent or charge an increased rent from any date earlier than the date of this Decision.**

Chairman N Martindale FRICS

Dated 18 March 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).