



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

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| Case Reference | : | LON/00BJ/F77/2024/0649 |
| Property | : | Middle Floor Flat, 17 Forthbridge Road, London, SW11 5NX |
| Landlord | : | W P Leppard & Sons Ltd |
| Tenant | : | Mr and Mrs P Lawrence |
| Type of Application | : | Assessment of Fair Rent |
| Tribunal Members | : | Judge Robert Latham Mrs Alison Flynn MA MRICS |
| Date and venue of Determination | : | 21 March 2025 at 10 Alfred Place, London WC1E 7LR |
| Date of Reasoned Decision | : | 21 March 2025 |

EXTENDED REASONS

Background

1. On 5 July 2024, the landlord applied to the Rent Officer for the registration of a fair rent of £715 per month at Middle Floor Flat, 17 Forthbridge Road, London, SW11 5NX (“the flat”) pursuant to Part IV of the Rent Act 1977 (“the Act”). The existing rent was £676.50 per month.
2. On 27 August 2024, the Rent Officer registered a fair rent of £756 per month, with effect from 27 August 2024. He first assessed the market rent to be £1,450 per month. He then made adjustments of £610 (42%), having regard to four factors: tenants' decoration liability; no white goods, no floor coverings/curtains and some damp. He finally made a deduction of £84 (10%) for scarcity. He assessed the fair rent at £756 per month.

3. The Rent Officer's calculation suggests that he then computed the "capped rent" to be £756 per month, the same level as the fair rent. We have checked this and compute the capped rent at this time to be £811.50. He registered a fair rent of £756 pm.
4. The tenant requested the Rent Officer to refer the matter to the First-tier Tribunal (Property Chamber) (the "Tribunal"). Neither party requested an oral hearing. Both parties made written representations.

The Inspection

5. The Tribunal inspected the property. Mrs Lawrence was present. The Landlord was represented by Mr Marc Leppard. The tenancy was granted in February 1979.
6. The flat is in a late Victorian end of terrace property in Battersea. It has subsequently been converted to create three flats. The flat has two rooms, a kitchen and a bathroom. Access to the two upper flats is via steps at the rear of the property. In 2002, the tenant installed central heating and a new kitchen and bathroom. The landlord has accepted responsibility to maintain the central heating. The landlord replaced the boiler in about 2016. The tenant has also installed double glazing to the rear of the flat. The landlord replaced the shower in 2022. There was evidence of dampness to the rear of the property behind the kitchen. This seems to be condensation due to there being inadequate means to remove the excess moisture. The tenants complain of noise nuisance from the flat above. The landlord has sought to improve the sound insulation above the living room. The tenants complain that the noise nuisance has become worse since a new tenant moved into occupation. This suggests that the problem is one of nuisance, which is not relevant to the rent which we are required to assess.

The Law

7. When determining a fair rent in accordance with section 70 of the Act, the Tribunal:
 - (1) has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property;
 - (2) disregards the effect on the rental value of the property of (a) any relevant tenant improvements and (b) any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy;
 - (3) assumes (as required by s.70(2)) that, whatever might be the case, the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent. In other words that the effect of any such 'scarcity' on rental values is not reflected in the fair rent of the subject property.

8. 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 emphasised that section 70 means that:
 - (a) ordinarily a fair rent is the market rent for the subject property discounted for 'scarcity' and
 - (b) 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).
9. Thus, once the market rent for the property has been determined by the exercise in (2) above that rent must be adjusted, where necessary, for any scarcity.
10. Having assessed a fair rent, a Tribunal must consider the effect of the Rent Act (Maximum Fair Rent) Order 1999. We annexe this as Appendix 2.
11. In reaching our determination, the Tribunal has taken into account the documents provided by the Rent Officer, the limited representations provided by the parties and our findings on viewing the property.

Our Assessment of the Fair Rent

(i) The Market Rent

12. The Tribunal first determines the fair rent in accordance with section 70 of the Act. Our starting point is to determine the rent which the landlord could reasonably expect to obtain for the premises in the open market if it were let today in the condition that is considered usual for such an open market letting in this locality.
13. The Rent Officer has provided a schedule of rents for one bedroom flats in Battersea. The rents range from £198 to £485 pw. The rent officer assessed a market rent of £1,450 pm. Our research suggests a range of £1,575 to £2,000 pm. We assess a market rent of £1,600 pm, a figure at the lower end of the scale reflecting the unusual access to the flat.

(ii) The Adjusted Rent

14. Secondly, this property is not let under the terms or in the condition considered usual for a modern letting at a market rent in this highly desirable area. Substantial adjustments must be made for this. The Rent Officer made a deduction of 42% for these.
15. We have also agreed to make a deduction of 40% (£640 pm) in respect of the following and determine an adjusted rent of £1,100 pm having regard to:

- (i) The disrepair;

- (ii) No central heating;
 - (iii) The kitchen;
 - (iv) The bathroom;
 - (v) Terms and conditions;
 - (vi) No carpets, curtains or white goods.
16. We considered these factors separately and then considered whether the overall reduction is justified. We are satisfied that it is.

(iii) Scarcity

17. Finally, we must consider the issue of scarcity. The Rent Officer made a reduction of 10% in respect of this.
18. In *Yeoman's Row Management Ltd v London Rent Assessment Committee* [2002] All ER (D) 148 (Apr), Ousley J held that scarcity must be considered over a wider area than a particular locality. Greater London is now considered to be an appropriate area to use as a yardstick for measuring scarcity.
19. Applying our own general knowledge and having regard to the collective knowledge of our expert members on Tribunals in London, we conclude that 20% is the appropriate reduction to make for scarcity in Greater London.
20. We therefore reduce the adjusted rent by £192 pm (20%). This results in our assessment of a fair rent of £768 pm.

The Capped Rent

21. It is then necessary for the Tribunal to compute the "capped rent" applying the Maximum Fair Rent Order. We annexe our calculation to our decision and computed a figure of £820. We note that we are computing the capped rent some seven months later that the Rent Officer over which period there has been a modest increase in the RPI. There has been a significant increase in the RPI since a fair rent was last registered.
22. As the capped rent is higher than the fair rent that we have determined, it is the fair rent that is payable.

Decision

23. The Tribunal determines a fair rent of £768 pm. We note that the rent is somewhat higher than that sought by the landlord. The landlord has a discretion as to whether it charge the fair rent which we have assessed.

Judge Robert Latham
21 March 2025

Appendix 1: Calculation of fair rent

1. Market rent in good condition with modern amenities £1,600 pm

2. Less adjustments for the following (40%): £640 pm

(i) The disrepair;

(ii) No central heating;

(iii) The kitchen;

(iv) The bathroom;

(v) Terms and conditions;

(vi) No carpets, curtains or white goods.

Adjusted Rent: £960 pm

3. Less scarcity in locality (Greater London) (20%): £192 pm

Fair Rent: £768 pm

Rent limit provided for by the Rent Acts
(Maximum Fair Rent) Order 1999 £820 pm

Fair Rent Determined £768 pm

Appendix 2

The Rent Acts (Maximum Fair Rent) Order 1999 (SI 1999 No.6)

Article 2

(1) Where this article applies, the amount to be registered as the rent of the dwelling-house under Part IV shall not, subject to paragraph (5), exceed the maximum fair rent calculated in accordance with the formula set out in paragraph (2).

(2) The formula is: $MFR = LR [1 + (x-y)/y + P$

where—

MFR is the maximum fair rent;

LR is the amount of the existing registered rent for the dwelling-house;

x is the index published in the month immediately preceding the month in which the determination of a fair rent is made under Part IV;

Y is the published index for the month in which the rent was last registered under Part IV before the date of the application for registration of a new rent; and

P is 0.075 for the first application for rent registration of the dwelling-house after this Order comes into force and 0.05 for every subsequent application.

(3) Where the maximum fair rent calculated in accordance with paragraph (2) is not an integral multiple of 50 pence the maximum fair rent shall be that amount rounded up to the nearest integral multiple of 50 pence.

(4) If $(x-y)/y + P$ is less than zero the maximum fair rent shall be the existing registered rent.

(5) In applying this article no account shall be taken of any variable sum to be included in the registered rent in accordance with section 71(4) of the 1977 Act.

(6) Subject to paragraph (7), this article applies where an application for the registration of a new rent in respect of a dwelling-house is made after this Order comes into force and, on the date of that application, there is an existing registered rent under Part IV in respect of that dwelling-house.

(7) This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.

(8) For the purposes of this article:

(a) references to Part IV are to be Part IV of the 1977 Act;

(b) “common parts in relation to a building, includes the structure and exterior of the building and common facilities provided for the occupiers of the dwelling-houses in the building;

(c) “index” means the monthly United Kingdom Index of Retail Prices (for all items) published by the Office for National Statistics.