



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

Case Reference	:	LON/00AY/F77/2025/0022
Property	:	Flat 49, Hartington Court, Lansdowne Way, London, SW8 2ED
Landlord	:	K Newbrook Limited
Managing Agent	:	J S Estates
Tenant	:	Mr Anthony Brian Brook
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 6 June 2024, the landlord applied to the Rent Officer for the registration of a fair rent of £975 per month at Flat 49, Hartington Court, Lansdowne Way, London, SW8 2ED (“the flat”) pursuant to Part IV of the Rent Act 1977 (“the Act”). The existing rent was £770.38 per month.
2. On 8 July 2024, the Rent Officer registered a fair rent of £975 per month, with effect from 8 July 2024. He first assessed the market rent to be £2,166 per month. He then made adjustments of £975 (45%), having regard to four factors: tenants' decoration liability; no white goods, no floor coverings/curtains and

unmodernised kitchen. He finally made a deduction of £119.10 (10%) for scarcity. He assessed the fair rent at £1,071.90 per month.

3. He then computed the “capped rent” to be £975 per month. As the capped rent was lower than the fair rent, it was the capped rent of £975 per month which was registered. He assessed the sum attributable to services to be £181.05 per month.
4. The tenant requested the Rent Officer to refer the matter to the First-tier Tribunal (Property Chamber) (the “Tribunal”). The tenant requested an oral hearing and made written representations. The landlord attended neither the hearing nor the inspection. It made no written representations.

The Inspection

5. At the hearing, the tenant elaborated upon his written representations. The Tribunal later inspected the property. The tenant and his nephew, Noah Halperin, were present at both the hearing and the inspection. The tenancy was granted on 20 November 1970.
6. The flat is in Nine Elms. It is in a block of 80 flats which was constructed in the 1920s. The flat is on a mezzanine between the first and second floors. There is no lift. There is no central heating, and the tenant has provided his own portable heating appliances. The flat has double glazed units. The block is not well maintained. There was evidence of dampness throughout the flat which is reflected in the photographs provided by the tenant. The flat consists of three rooms, a kitchen and a bathroom. The kitchen is very rudimentary. The bath was replaced some years ago, the tenant contributing 50% of the cost to obtain a higher quality bath.

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 two bedroom units in SW8 in the range of £1,350 to £5,113 per month. He assessed a market rent of £2,166 per month. Our research suggests a range of £1,900 to £2,350 per month. We have assessed a market rent of £2,000.

(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 45% for these.
15. We have also agreed to make a deduction of 45% (£900 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 £220 pm (20%). This results in our assessment of a fair rent of £880 pm.
- 21. The Rent Officer has recorded that £181.05 pm has been recorded for services. This figure have not been challenged and we confirm them.

The Capped Rent

- 22. 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 £998.50 pm. We note that the capped rent which we have computed is higher than that determined by the Rent Officer (£975). We are computing the capped rent some eight months later over which period there has been a modest increase in the RPI.
- 23. As the capped rent is higher than the fair rent that we have determined, it is the fair rent that is payable.

Decision

- 24. The Tribunal determines a fair rent of £880 pm.

Judge Robert Latham
21 March 2025

Appendix 1: Calculation of fair rent

1. Market rent in good condition with modern amenities £2,000 pm

2. Less adjustments for the following (45%): £900 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: £1,100 pm

3. Less scarcity in locality (Greater London) (20%): £220

Fair Rent: £880 pm

Rent limit provided for by the Rent Acts
(Maximum Fair Rent) Order 1999 £988.50 pm

Fair Rent Determined £880 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.