



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

Case Reference : **LON/00AN/F77/2025/0008**

Property : **59A Harwood Road, London, SW6
4QL**

Tenant : **B J McParland**

Landlord : **Notting Hill Genesis**

Date of Objection : **14 November 2024**

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

Tribunal : **Mr A Harris LLM FRICS FCIArb**

**Date of
Reasons** : **24 March 2025**

DECISION

The sum of £210.50 per week will be registered as the fair rent with effect from 18 March 2025, being the date the Tribunal made the Decision.

REASONS

Background

1. The property was previously the subject of a registered rent of £145 per week registered on 26 April 2018 and effective from the same date.
2. On 27 September 2024 the landlord applied for reregistration of the rent and applied for £196.32 per week as the new rent. The application indicates that the current rent payable was £141.86 per week which is below the previous registered rent which is the maximum which can be charged. This may indicate that the tenant pays a social rent which is increased yearly in line with increases in the CPI +1%.
3. Following an objection from the Tenant to the determination of a fair rent by the Rent Officer, the Tribunal has made a determination under the provisions of the Rent Act 1977.

Inspection

4. The Tribunal did not inspect the property but considered this case on the basis of the papers provided by the parties.

Evidence

5. There were no representations from the landlord. The tenant wrote highlighting items of disrepair supported by photographs. Central heating was installed by the tenant. Disrepair can be reflected in the section 70 market rent adjusted for scarcity but has no effect on the capped rent.

The Law

6. When determining a fair rent in accordance with section 70 of the Rent Act 1977, the tribunal has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property.
7. 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 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 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.

8. The rent has been previously registered, and the Rent Acts (Maximum Fair Rent) Order 1999 therefore applies unless there are significant improvements made by the Landlord which increase the rent which would be registered by more than 15%. There are no such improvements in this case. The previous registration is therefore the starting point for assessing the new rent under the Order. The Order sets out the basis for calculating the new rent which is the increase in the Retail Prices Index from the last registration date plus 5% where the rent has previously been registered.

Determination and Valuation

9. In the absence of rental comparables provided by the parties the tribunal has relied on its own expert, general knowledge of rental values in the area. We consider that the open market rent for the property in the condition and with the amenities the market would expect would be in the region of £550.00 per week. From this level of rent we have made adjustments in relation to:
 - a. No carpets curtains or white goods
 - b. No central heating
 - c. General condition and disrepair highlighted by the tenant
10. The Tribunal has also made an adjustment for scarcity.
11. The full valuation is shown below:

Fair rent			
		pqtr	
Market rent		£	550.00
less condition & terms	35%	-£	<u>192.50</u>
adjusted rent		£	357.50
less scarcity off adj rent	20%	-£	<u>71.50</u>
Fair rent		£	286.00

12. The Tribunal determines a s70 rent of £286.00 per week.

Decision

13. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £286.00 per week. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at £210.50 per week. The calculation of

the capped rent is shown on the decision form. In this case the lower rent of £210.50 per quarter is to be registered as the fair rent for this property.

14. The tribunal notes that the rent paid by the tenant may be a social rent which can only be increased by the rise in the Consumer Prices Index plus 1%. The jurisdiction of the tribunal is limited to finding a fair rent as set out in the Rent Act and it has no power over the level of a social rent. In a relevant case it is the lower of the social rent and fair rent which is due from the tenant.

Chairman: A Harris

Date: 24 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 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. Please note that if you are seeking permission to appeal against a decision made by the Tribunal under the Rent Act 1977, the Housing Act 1988 or the Local Government and Housing Act 1989, this can only be on a point of law.

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