



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

Case reference : LON/00BH/F77/2024/0686

Property : 49 Vansittart Road, London, E7 0AT

Landlord : London and Quadrant Group

Tenant : Mrs Angela Venson

Date of objection : 11 October 2024

Type of application : Determination of the registered rent under Section 70 Rent Act 1977

Tribunal member(s) : Mr O Dowty MRICS
Mr C Piarroux

Venue : 10 Alfred Place, London, WC1E 7LR

Date of decision : 19 February 2025

REASONS FOR DECISION

Background

1. The Landlord applied to the Rent Officer for the registration of a fair rent for this property on 15 August 2024.
2. A (capped) fair rent of £253 per week was registered on 3 October 2024 following the application, such rent to have effect from that date. The tenant subsequently challenged the registered rent on 11 October 2024, and the Rent Officer requested the matter be referred to the tribunal for determination.
3. Directions were issued on 3 December 2024 by the Tribunal. The parties were directed to provide reply forms, and invited to submit any relevant information and submissions. The tenant provided a reply form which contained submissions and photographs. The landlord provided neither a reply form nor any other submissions.
4. In their reply form, the tenant indicated that she wished the Tribunal both to inspect the property and hold a hearing. Accordingly the Tribunal arranged for a video hearing (as the tenant has mobility issues) to be followed by an inspection on 19 February 2025.

The Hearing

5. The tenant attended the video hearing alongside her daughter, Ms Aai'sha Venson – who did most of the talking on the tenant's behalf. The landlord did not attend the hearing. We considered that the landlord had been given sufficient notice of the hearing, and noted that there had been no submissions from them at all to this Tribunal. In addition, it is far from unusual in fair rent cases such as this (particularly where the rent registered by the rent officer is capped) for the landlord not to attend. We therefore considered that it was in the interests of justice that we proceeded with the hearing in the absence of the landlord, and accordingly we did so.
6. The tenant was not represented, and a good part of the hearing was spent discussing the legal framework within which the Tribunal operates. Much of the tenant's submissions focussed on her personal circumstances, which we are of course sympathetic to, but (as we explained at the hearing) have no bearing on what the Tribunal is to do.
7. Put simply, the Tribunal's role in fair rent matters such as this is simply to work out what rent should be registered as being the 'fair rent'. That 'fair rent' is a legal cap on what the landlord can charge the tenant in rent for the premises. It is usually the case that the landlord charges the maximum amount determined, however it is open to them not to. Social housing providers, in particular, often do not do so for a variety of reasons including other legal restrictions placed specifically upon them in relation to increases in rent – but the

Tribunal does not have jurisdiction in relation to those other restrictions.

8. The tenant, in her submissions, also indicated that she thought the rent was being increased too frequently. However, as far as the fair rent registration is concerned, the last rent was registered (by this Tribunal) with effect from 13 April 2021, significantly more than the minimum two year period between such registrations.
9. The tenant did not make any submissions as to value and had not researched any comparable evidence of value for us to consider. However, the tenant spoke cogently and clearly to a number of issues at the property which they felt affected the determination – in line with the written submissions provided in the tenant's reply form. We do not intend to recite the tenant's submissions in full, which ranged from damp & water ingress issues to a missing bedroom door, but we are grateful for the submissions of the tenant and have considered those submissions in full (and have referenced a number of them in the valuation section of these reasons).

The Inspection

10. We inspected the property after the hearing, on the same day as it. The landlord did not attend the hearing, but the tenant and her daughter Ms Aai'sha Venson (as well as other members of the tenant's family) did.
11. The property is a 2 storey, 3 bed mid-terrace house under a pitched tiled roof located in the Cann Hall area of East London.
12. On the ground floor the property offers a large living room, a bathroom, a storage cupboard and a kitchen off an entrance hall. On the first floor the property offers 3 bedrooms.
13. The bathroom is basic, dated and is damp – and this did not seem to us to be consistent with being a failing on the tenant's part. In addition, the landlord has carried out 'repairs' to the tiles in the bathroom by installing further tiles on top of those which were already present, some of which have fallen off.
14. The kitchen is basic and dated, and the tenant avers (as with all of their submissions, unopposed) that there are damp problems in the kitchen units – which appeared consistent with what we saw on inspection.
15. The tenant also complained of a problem with mice and rats, and there were bait traps around the property. We must note, relatedly, that the floors of the property did not appear to be particularly clean on our inspection – and a number of items were piled on top of each other around the property.

16. Upstairs, there are various water ingress and associated damp issues to the ceilings of the property. In addition, we observed that there was a broken step on the staircase at the property – and that the front bedroom door was missing.
17. Externally, the fence in the back garden on the left-hand side (when looked at from the house) is in a poor condition. There is a crack to the pebble-dashing near the kitchen door, and there was clear evidence, both by sight and smell, of the drains at the property backing up. At the front, there is clear black marking to the roof (the cause of which could not be accurately determined from ground level alone), the paint to the sill of one of the upstairs windows is peeling off and some of the paint on one of the columns to the front bay window has apparently chipped away.

The Law

18. When determining the fair rent, in accordance with the Rent Act 1977, section 70, “the Act”, we had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property. We 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.
19. In **Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee (1995)** and **Curtis v London Rent Assessment Committee [1999]** the Court of Appeal emphasised that ordinarily a fair rent is the market rent for the property discounted for 'scarcity'. This is 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.
20. **Curtis v London Rent Assessment Committee (1999) QB.92** is a relevant authority in registered rent determination. This authority states where good market rental comparable evidence i.e., assured shorthold tenancies is available enabling the identification of a market rent as a starting point it is wrong to rely on registered rents. The decision provides that: *“If there are market rent comparables from which the fair rent can be derived why bother with fair rent comparables at all”*.
21. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
22. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.

23. The Upper Tribunal in **Trustees of the Israel Moss Children's Trust v Bandy [2015]** explained the duty of the First Tier Tribunal to present comprehensive and cogent fair rent findings. These directions are applied in this decision.
24. **The Rent Acts (Maximum Fair Rent) Order 1999** applies to all dwelling houses where an application for the registration of a new rent is made after the date of the Order and there is an existing registered rent under part IV of the Act. This article restricts any rental increase to 5% above the previously registered rent plus retail price indexation (RPI) since the last registered rent. The relevant registered rent in this matter was registered on 2 June 2020 at £188 per week. The rent registered on 3 October 2024 subject to the current objection and subsequent determination by the Tribunal is not relevant to this calculation.

Valuation

25. Neither party provided any evidence of value for us to consider. Accordingly, we considered the rental value of the property in line with our own expert knowledge of general rental values in the local area of the subject property.
26. We considered that the property might be expected to let for £530 per week, were the property let on the market in the condition and on the terms considered usual for such a letting.
27. This hypothetical rent is adjusted as necessary to allow for the differences between the terms and conditions considered usual for such a letting and the condition of the actual property at the date of the determination. Any rental benefit derived from Tenant's improvements is disregarded. It is also necessary to disregard the effect of any disrepair or other defects attributable to the Tenant or any predecessor in title.
28. The lease terms of the tenancy are such that the tenant is responsible for internal decoration at the property. This is a material valuation consideration, and we made a deduction of 5% from the hypothetical rent to reflect these lease terms.
29. We made a deduction of 2.5% to account for the kitchen at the property being basic and dated.
30. We made a deduction of 5% to account for the basic and dated bathroom, and the fact that the tiles around the bath (installed by the landlord) had been placed on top of other tiles – leading some to now fall off as they were not affixed to a properly prepared surface.
31. We made a deduction of 5% to account for the tenant's having provided the white goods, floor coverings, curtains/blinds and other

similar furniture which would usually be provided by a landlord in the open market.

32. We made a 10% deduction to account for the water ingress and damp issues at the property. This includes a leak from the roof which, whilst not itself directly visible on inspection, was consistent with what we saw and was offered in unopposed evidence by the tenant.
33. We made a 5% deduction to account for the central heating at the property being faulty and there being electrical issues resulting in the electrics 'tripping out' – which again were offered in unopposed evidence by the tenant.
34. We made a deduction of 5% to account for the external condition of the property, the issues with the external drain (which 'blocks up') and the damaged garden fence.
35. We made a further deduction of 1% to account for the broken step on the stairs, and the missing bedroom door.
36. We made no deduction in relation to the tenant's complaint of mice at the property. To some extent, this is already reflected in the hypothetical market rent 'starting point' adopted as mice commonly enter into period properties (and there is no practical way of making such a property completely 'mouse-proof') – but in addition we did note that the property's floors were not particularly clean on inspection. We are sensitive to the mobility issues of the tenant, and this is not meant as adverse criticism of the tenant, but the fact is that unclean floors do not help as regards the presence of mice.
37. The provisions of section 70(2) of the Rent Act 1977 in effect require the elimination of what is called "scarcity". The required assumption is of a neutral market. Where a Tribunal considers that there is, in fact, substantial scarcity, it must make an adjustment to the rent to reflect that circumstance. In the present case neither party provided evidence with regard to scarcity.
38. The decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee* [2002] EWHC 835 (Admin) requires us to consider scarcity over a wide area rather than limit it to a particular locality. Greater London is now considered to be an appropriate area to use as a yardstick for measuring scarcity and it is clear that there is a substantial measure of scarcity in Greater London.
39. Assessing a scarcity percentage cannot be a precise arithmetical calculation. It can only be a judgement based on the experience of members of the Tribunal. We therefore relied on our own knowledge and experience of the supply and demand for similar properties on the terms of the regulated tenancy (other than as to rent) and in particular to unfulfilled demand for such accommodation. In doing

so, we found that there was substantial scarcity in Greater London and therefore made a further deduction of 20% from the adjusted market rent to reflect this element.

40. The valuation of a fair rent is an exercise that relies upon relevant market rent comparable transactions and property specific adjustments. The fair rents charged for other similar properties in the locality do not form relevant transaction evidence.

41. Table 1 below provides details of the fair rent calculation:

Property:	49 Vansittart Road, London, E7 0AT							
Fair rent calculation in accordance with s(70) Rent Act 1977								
Market Rent					£530	per week		
Disregards					Deduction per week		as % of weekly rent	
Lease terms						£26.50	5.0%	
Dated & basic kitchen						£13.25	2.5%	
Dated & basic bathroom with poor tiling						£26.50	5.0%	
Tenant's provision of white goods, floor coverings, curtains, etc.						£26.50	5.0%	
Damp & water ingress						£53.00	10.0%	
Faulty central heating & electrical issues						£26.50	5.0%	
External condition, drain blockages, damaged fence						£26.50	5.0%	
Broken step on stairs and missing bedroom door						£5.30	1.0%	

Table 1

Decision

42. For the reasons given above, we arrive at an initial fair rent value of £260 per week.

43. As the value we arrived at is higher than the maximum rent prescribed by The Rent Acts (Maximum Fair Rent) Order of £254.50 per week, the Fair Rent that can be registered is capped by that order.

44. The statutory formula applied to the previously registered rent is at Appendix A.

45. Details of the maximum fair rent calculations are provided with the accompanying notice of our decision.

46. Accordingly, the sum that will be registered as a fair rent with effect from 19 February 2025 is £254.50 per week.

47. As we have observed above, the fair rent the Tribunal determines is the maximum rent that any landlord may charge at the property; but they may charge a lower rent should they wish or be required to for some other reason.

Valuer Chairman: Mr O Dowty MRICS

Dated: 2 April 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 Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix A
The Rents Act (Maximum Fair Rent) Order 1999

(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:

$$\text{MFR} = \text{LR} \left[1 + \frac{(\text{x}-\text{y})}{\text{y}} + \text{P} \right]$$

where:

- 'MFR' is the maximum fair rent;
- 'LR' is the amount of the existing registered rent to 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 $\frac{(\text{x}-\text{y})}{\text{y}} + \text{P}$ is less than zero the maximum fair rent shall be the y existing registered rent.