



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

**Case Reference** : **LON/00AC/F77/2025/0046**

**Property** : **Second & Third Floor Flat, 51B  
Golders Green Road, London, NW11  
8EL**

**Tenant** : **Ms Lucia Wilson**

**Landlord** : **Banham Security Ltd**

**Date of Objection** : **7 November 2024**

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

**Tribunal Members** : **Ms S Beckwith MRICS  
Mr I B Holdsworth FRICS**

**Venue of Hearing** : **10 Alfred Place, London, WC1E 7LR**

**Date of decision** : **11 April 2025**

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**DECISION**

**The sum of £850 per calendar month will be registered as the fair rent with effect from 11 April 2025, being the date the Tribunal made the Decision.**

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## **REASONS**

### **Background**

1. The Landlord applied to the Rent Officer for the registration of a fair rent for this property on 22 August 2024.
2. A fair rent of £891 per calendar month was registered on 16 October 2024 following the application, such rent to have effect from 16 October 2024. The Tenant subsequently challenged the registered rent on 7 November 2024 and the Rent Officer requested the matter be referred to the Tribunal for determination.
3. Directions were issued on 11 February 2025 by the Tribunal. The parties were directed to provide reply forms and invited to submit any relevant information and submissions. Both parties returned the reply forms and provide additional information to assist the Tribunal. The Tenant requested a hearing and an inspection.

### **Hearing**

4. A hearing was held on 11 April 2025. Ms Wilson, the Tenant, attended in person and was accompanied by her friend, Ms Neve. Ms Adam, Banham Security's Office and Facilities Manager, attended on behalf of the Landlord.
5. At the hearing, the Landlord and Tenant confirmed that neither party had made improvements to the property and there was no central heating. It was also confirmed as agreed that the Tenant had supplied all furnishings, white goods and floor/window coverings.
6. Ms Wilson highlighted two Fire Risk Assessments carried out in March 2024 and January 2025 and that none of the recommended work to the property had been undertaken. She also outlined ongoing issues where the external entrance to the property on Accommodation Road was blocked by cars and bins. Ms Adam confirmed that the Landlord does not own Accommodation Road and therefore has no power to prevent other parties using this area.
7. Ms Wilson drew the Tribunal's attention to the Housing Health and Safety report produced by Barnet Council in March 2025 in which Category 1 and Category 2 hazards were highlighted.
8. Ms Adam admitted that the Landlord had not previously been good at looking after this property. She confirmed that they are in the process of obtaining quotes to make substantial improvements to the property, although no works have been undertaken as at the date of the hearing.
9. Ms Adam referred to comparable rental evidence supplied by Strettons, the Landlord's letting agent, however, this had not been supplied to the

Tenant. Ms Adam also confirmed that she believed the dwelling on the first floor of the building was let at a higher rent, but could not provide any specific details of the date or terms of the tenancy.

10. An issue over the liability for the water charges was raised by both parties. The Tenant claimed she had been given a water bill in 2025 for the first time since she moved into the property in 1983. The Landlord asserted that they have never paid the water bill since they bought the property in 2006. The Rent Register entries supplied to the Tribunal for 2017 and 2024 do not specify which party is responsible for the water charges. The Tenant provided the Rent Register from 1996, which also does not mention the inclusion of water bills. No evidence has been provided to dispute the Tenant's assertion that they have never paid the water bill.
11. The Landlord supplied no evidence to contradict the assertion by the Tenant that the long standing custom and practice at the property is that the Landlord is liable for payment of water charges. Accordingly the Tribunal accept the testimony of the Tenant in this matter and directs that the Fair Rent includes any water charges for the property.

### **Inspection and Property**

12. The Tribunal carried out an inspection of the property on 11 April 2025. Ms Wilson and Ms Adam were present.
13. The Tribunal found that the property was a dwelling over the second and third floors of a mid-terrace building. There was a retail unit on the ground floor and another dwelling on the first floor.
14. The property is accessed via a narrow flight of concrete steps from the ground floor, then a further two flights of metal stairs. The front door of the property opens directly into the kitchen. There is a bathroom and separate WC on the second floor.
15. Contrary to the details on the 2017 and 2024 Rent Register and the Landlord's reply form, the Tribunal found that the property comprised two further rooms, rather than one, on the second floor. One room is currently used as a living room and one as a bedroom.
16. Between the second and third floors, an external area of flat roof is accessible from a door on a half landing. The Tribunal noted the lack of suitable guard rails around this external balcony/terrace area.
17. On the third floor, there are a further two rooms, capable of use as double bedrooms.
18. With the exception of one window in the rear third floor room, the windows are single glazed.

19. During the inspection, the Tribunal noted that Golders Green Road comprises parades of ground floor retail units with residential properties on the upper floors on both sides of the street. All residential properties are accessed from the roads to the rear of the properties, although the nature and standard of these entry routes varies considerably.

## **Law**

20. When determining the fair rent, in accordance with the Rent Act 1977, section 70, “the Act”, the Tribunal shall have regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property. It shall also disregard 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.
21. 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.
22. *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”*.
23. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
24. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.
25. 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.
26. 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 19 May 2017 at £725 per calendar month. The rent registered on 16 October 2024 subject to the current objection and subsequent determination by the Tribunal is not relevant to this calculation. The Order is not applied should the Tribunal assess that as a consequence of repairs or improvements carried out by the Landlord the rent that is determined in response to an application for a new rent registration exceeds by at least 15% the previous rent registered.

27. The Upper Tribunal in *Peabody Trust v Welstead* [2024] UKUT 41 (LC) addressed the reliance upon the experience and knowledge of a tribunal following an application to the Tribunal. Judge Martin Rodger KC, Deputy Chamber President said:

*“The FTT is a specialist tribunal whose members are appointed because of their experience and professional backgrounds in residential property matters. Whilst sitting on the FTT its members will acquire further relevant experience and familiarity with general levels of value or costs in a particular area. This is one of the key strengths of the Tribunal system and it particularly important in dealing with the numerous cases of modest value in which a decision has to be made on very limited information. Rent assessments are typical of those types of cases.”*

28. Although this decision was concerned with management charges it also specifically addressed the role of the Expert Tribunal when little or no evidence is provided by the parties. The Deputy Chamber President said:

*“It was entitled to rely on its general experience of management charges; that is what it was appointed to do and, in the absence of assistance from the parties, there was no other source on which it could rely.”*

29. In this matter comparable rental information or scarcity data was not proffered by either party and the Tribunal had to rely upon their general knowledge and expertise. This approach accords with the Upper Tribunal guidance on the appropriate role of the Tribunal in such situations.

## **Determination and Valuation**

30. The Tribunal has carefully considered the written submissions provided by both parties, the oral submissions and evidence given by the Landlord and Tenant at the hearing, and their own observations from the inspection.
31. Neither party provided evidence of comparable transactions. Having consideration of our own expert, general knowledge of rental values in the area, we consider that the open market rent for a three-bedroom property, above commercial premises and accessed to the rear, in the condition considered usual for such an open market letting, would be in the region of £2,500 per calendar month.

32. From this starting point, the Tribunal adjusts 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.
33. The Tenant has provided all furniture, floor and window coverings and white goods, which would usually be provided by a landlord in the open market. For this factor a 5% deduction has been made.
34. The bathroom in the property is dated and the kitchen provides only basic features, the appliances having been provided by the Tenant. A 7.5% discount has been made to reflect the quality of these rooms.
35. The Tribunal found the access to the property to be particularly poor, with a narrow entrance and poor condition of the steps, combined with the ongoing issue of the entrance being obstructed by the use of Accommodation Road. This would limit the potential occupiers who would be able to live in the property. For this the Tribunal has made a 10% discount.
36. The Tribunal has considered the two Fire Risk Assessments provided by the Tenant, which notes issues including lack of signage, emergency lighting and fire alarm; unclear fire separation works; and inadequate external doors. These are significant safety concerns for which the Tribunal has made a 10% discount.
37. The Health and Safety report by Barnet Council notes significant hazards, including extreme cold, lack of internal and external handrails to staircases, inadequate guardrails around the flat roofs and mould growth. A 15% deduction has been made to reflect the lack of central heating and poor thermal efficiency of the property. A 2.5% discount has been made for the lack of handrails. A 5% discount has been made for the inadequate guardrails. A 2.5% discount has been made for the mould.
38. 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.
39. 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.
40. The Tribunal has relied on its 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, it 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.

41. The full valuation is shown below:

		per calendar month
MARKET RENT		£2,500
<i>LESS</i>		
Tenant's provision of white goods, floor/window coverings	5%	£125.00
Dated kitchen/bathroom	7.5%	£187.50
Restricted and obstructed access	10%	£250.00
Inadequate fire safety	10%	£250.00
No central heating/poor thermal efficiency	15%	£375.00
Lack of handrails	2.5%	£62.50
Inadequate guardrails around flat roofs	5%	£125.00
Mould	2.5%	£62.50
Market rent less deductions		£1,062.50
Less scarcity	20%	£212.50
Market rent less deductions and scarcity		£850.00
<b>ADJUSTED MARKET RENT</b>		<b>£850</b>

42. The Tribunal determines a rent of £850 per calendar month.

### Decision

43. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £850 per calendar month. The capped rent for the property according to the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 is calculated at £1,088 per calendar month. The calculation of the capped rent is shown on the decision form. In this case the lower rent of £850 per calendar month is to be registered as the fair rent for this property.

**Chairman: Ms S Beckwith MRICS**

**Date: 11 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 First-tier Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).