



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

Case Reference : **LON/00AN/F77/2025/0042**

Property : **42C Lena Gardens, London, W6 7PZ**

Tenant : **Mr M Naitabbah**

Landlord : **Notting Hill Genesis**

Date of Objection : **2 December 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**

DECISION

The sum of £200 per week will be registered as the fair rent with effect from 11 April 2025, being the date the Tribunal made the Decision.

REASONS

Background

1. The Landlord applied to the Rent Officer for the registration of a fair rent for the property on 10 October 2024.
2. A fair rent of £197.50 per week was registered on 7 November 2024 following the application, such rent to have effect from 7 November 2024. The Tenant subsequently challenged the registered rent on 2 December 2024 and the Rent Officer requested the matter be referred to the Tribunal for determination.
3. Directions were issued on 5 February 2025 by the Tribunal. The parties were directed to provide reply forms and invited to submit any relevant information and submissions. The Tenant submitted a reply form, plus photographs and a video file. The Tenant requested a hearing. The Landlord did not make any submissions to the Tribunal.

Hearing

4. A hearing was held on 11 April 2025. Mr Naitabbah, the Tenant, attended in person and was accompanied by his friend, Mr Khale. The Landlord did not attend.
5. At the hearing, Mr Naitabbah confirmed that he had installed a new kitchen sometime around the year 2000 and had installed tiling in the bathroom. He also confirmed that he had supplied all furnishings, white goods and floor and window coverings.
6. Mr Naitabbah confirmed that there were repair issues at the property including the doorbell not functioning for several years and a damp patch. Mr Naitabbah advised the Tribunal that the landlord had replaced one window in the bathroom and one in the living room. The other windows in the kitchen, bedroom and lounge are single glazed and in poor repair. The Tribunal noted the photographs provided which evidenced the condition of these windows.
7. Mr Naitabbah was not able to provide evidence of comparable properties, but felt the percentage increase in rent was unreasonable.

The Property

8. Neither party requested an inspection. The Tribunal relied on the reply form and photographs provided by the Tenant, as well as the application form of the Landlord and information provided by the Rent Officer.

9. The property is a one-bedroom flat on the second floor of a converted terraced house, externally similar in nature to other properties on the street. It has a living room, kitchen and bathroom. The property has central heating.

Law

10. 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.
11. 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.
12. *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”*.
13. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
14. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.
15. 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.
16. 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 24 April 2018 at £137 per week. The rent registered on 7 November 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.

17. 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.”

18. 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.”

19. 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

20. Neither party provided evidence of comparable properties. Having consideration of our own expert, general knowledge of rental values in the area, we consider that the open market rent for the property in the condition considered usual for such an open market letting would be in the region of £400 per week.
21. 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. Any rental benefit derived from Tenant’s improvements is disregarded.

22. 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.
23. The bathroom in the property is dated with tiling provided by the Tenant and the kitchen has been updated by the Tenant. A 5% discount has been made to reflect the assumed unimproved nature of these rooms.
24. The Tribunal noted the photographic evidence of the poor condition of several of the windows and surrounds, which are likely contributing factors to damp conditions experienced in the property. A 5% discount has been made to reflect the condition of the property.
25. 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.
26. 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.
27. 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.
28. The full valuation is shown below:

MARKET RENT		per week £400
LESS		
Tenant's provision of white goods, floor/window coverings	5%	£20.00
Unimproved kitchen/bathroom	5%	£20.00
Condition of windows/damp	5%	£20.00
Market rent less deductions		£340.00
Less scarcity	20%	£68.00
Market rent less deductions and scarcity		£272.00
ADJUSTED MARKET RENT		£272

29. The Tribunal determines a rent of £272 per week

Decision

30. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £272 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 £200 per week. The calculation of the capped rent is shown on the decision form. In this case the lower rent of £200 per week 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).