



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

Case reference : LON/00AW/F77/2025/0085

Property : Flat C, 36 Egerton Gardens,
London, SW3 2DB

Tenant : Mr Michael Gerard Murphy

Landlord : Mogul International Management

Representative : Solvere Solicitors

Date of application : 7 January 2025

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

Tribunal member(s) : Mr A Parkinson MRICS
Mr O Miller

Venue : 10 Alfred Place, London, WC1E 7LR

Date of decision : 18 June 2025

REASONS FOR DECISION

Background

1. The Landlord applied to the Rent Officer for the registration of a fair rent for the property in an application dated 31 October 2024.
2. A fair rent of £1,628.64 per month was registered on 30 December 2024 following the application, such rent to have effect from 30 December 2024. The Landlord subsequently challenged the registered rent on 7 January 2025 and the Rent Officer has referred the matter to the Tribunal for determination.
3. Directions were issued by the Tribunal on 14 March 2025. These directions were subsequently amended and re-issued on 10 April by the Tribunal.
4. The parties were invited to submit any relevant information and submissions by the specified deadlines.
5. The Landlord provided a reply form along with a bundle of 184 pages which contained the Landlord's submissions and evidence in relation to the property, layout and rental value as well as evidence relating to the condition and furnishings.
6. The Tenant provided a reply form and additional evidence in the form of a 6-page document with the Tenant's submissions regarding the property, condition, layout and works undertaken over the course of the tenancy as well as details of the location and aspect of the property.
7. The Landlord submitted a further 10-page submission in response to the Tenant's submission.
8. In their reply form, the Tenant had indicated that they wished a hearing be held in this matter. Accordingly, a face-to-face hearing was held in this matter on 23 May 2025 at 10 Alfred Place, London.
9. In their reply form the Landlord requested that the property be inspected. Accordingly the property was inspected by the Tribunal on 13 June 2025.
10. The Tribunal is grateful to both the Landlord and Tenant for the submissions that they provided in advance of the hearing.

The Hearing

11. The Landlord, Mr Mogul and the Landlord's representative, Mr O'Donnell of Solvere Solicitors attended the hearing in person. The Tenant, Mr Murphy also attended in person.

12. The parties were directed by the Tribunal to focus their submissions in the hearing on the relevant factors that the Tribunal are required to consider as part of the case, namely the property and associated rental value and details of any disrepair and any mitigating reasons for disrepair. Additionally details of any improvements and the party responsible for such improvements. The parties were reminded that personal circumstances are not a relevant consideration for the Tribunal.
13. The Landlord's representative presented the Landlord's case. The Landlord's overall position is that the property is not in disrepair and that the property is in good overall condition. Further that the Tenant has opposed offers of improvements made by the Landlord.
14. The Landlord's representative stated that extensive works were undertaken to the property which included damp proofing and window repairs along with works to the bathroom and internal redecoration works in 2024. The Landlord considers these to be improvement works.
15. The Landlord does not consider the works undertaken in 2009 to be attributable to tenant improvements because the works were funded by a grant rather than at the Tenant's expense.
16. Turning to the rental value, the Landlord submitted details of three properties which were listed on PrimeLocation.com in December 2024. The three properties are all situated within Egerton Gardens and are all one-bedroom properties. One was listed with an asking rent of £6,500 per month and two for £5,417 per month. Whilst floorplans are not included within the listings, the properties appear to be larger than the subject property, none are basement level properties and all benefit from outside space and are finished and furnished to a high standard. The £6,500 per month flat is also listed as a short let which would likely command a higher rent.
17. The Landlord submits that the average rent according to [home.co.uk](https://www.home.co.uk) for one bedroom properties in SW3 is £3,660 per month with the median rent being £3,142.
18. The Landlord also provided an email from Hamza Lakhany of O'Sullivan Property stating the expected rent to be £760 per week. This figure was based on an email exchange with photos of the property, rather than an inspection by Mr Lakhany.
19. The Landlord acknowledges that the property is located at basement level but submits that a rental figure of £3,332 per month is what they consider would be achievable for the subject property.
20. The Landlord submitted details of service charges payable for the subject property which are paid by the Landlord but which the Landlord averred that the Tenant derives benefit from. It was

acknowledged that the services do not form part of the tenancy agreement between the Landlord and Tenant and that services are not separately recovered from the tenant as a service charge.

21. The Tenant described the layout and accommodation and highlighted works completed via grant funding in 2009 that he considers improvement works and included re-wiring and electrical works, works to improve the kitchen and bathroom and redecoration works.
22. The Tenant acknowledged that damp proofing works, redecoration and bathroom works were undertaken but avers that these works amounted to maintenance and reinstatement rather than improvements, in his view.
23. The Tenant states that the property is unique in layout and aspect and so difficult to compare to other properties due to the negative impact on the subject property of its aspect, which means that the property suffers from reduced natural light, it only has windows to the front of the apartment and the layout is not considered conventional. His view is that these negative factors reduce the rental figure. The Tenant did not submit or suggest the level of rent that he considered appropriate and that he would rely on the expert view of the Tribunal to determine the level of rent and relevant adjustments.
24. The Tenant submitted that the Tribunal should consider rental negotiations which take place outside of the open market such as those whereby landlords and tenants agree the rental increase between themselves which may be less than an open market rent.
25. The Tenant stated in relation to scarcity that the Tribunal should consider net migration in order to reach the scarcity figure but did not submit any evidence in this regard.
26. The Tenant submitted that he did not consider the works undertaken by the freeholder to be improvements and he states that these works were part of an insurance claim merely to reinstate the property rather than improve it.
27. At the hearing the Landlord's representative highlighted that the Landlord had requested an inspection of the property within the Landlord's reply form. The Tenant confirmed their agreement for an inspection to take place. An inspection was subsequently scheduled for 13 June at 10.30am.
28. As part of the scheduling of the inspection, the Landlord was asked if they planned to attend the inspection and accordingly the Tenant was asked if they were content for the Landlord to enter the subject property. The Tenant responded that he did not consent to either the Landlord or Landlord's representative attending the inspection of the subject property. The Landlord's representative stated that whilst not

ideal they were content for the inspection to take proceed in their absence.

29. After the hearing was concluded on 23 May, Mr Murphy stated that he was dissatisfied with the hearing and his involvement in the process but that this was not a reflection on the individual Tribunal members involved but the tribunal process.

Inspection

30. The Tribunal inspected the property on 13 June 2025, accompanied by Mr. Pearce, a friend of the Tenant who provided access as Mr Murphy was otherwise engaged. Mr Pearce offered an envelope of documents to the tribunal. The Tribunal declined to accept the documents and stated that all correspondence to the Tribunal should be via email with the Landlord copied.
31. Neither the Landlord or Landlord's representative attended the inspection.
32. The property is a one-bedroom basement level apartment – accessed via a ground floor communal entrance door with an internal staircase leading to the basement. There is no outside space available to the subject property as far as the Tribunal are aware. Externally the building appears to be in good condition based on a street level visual inspection of the front elevation.
33. Within the demise, the apartment entrance door opens directly into the reception room, which has an adjacent small kitchenette. An internal lobby adjacent the reception room has an internal cupboard containing the hot water cylinder. Off the lobby is the bedroom which contains a double bed and also the bathroom containing a bath, basin and toilet
34. The property has timber framed single-glazed sash windows to the reception room and bedroom. All windows are on the front elevation with no windows to the internal lobby, bathroom or kitchen. There is no central heating to the property.
35. The cosmetic condition of the property and decoration is generally good. The kitchen and bathroom are considered basic compared to comparable rental properties.
36. Following the inspection the Tenant sought to submit late evidence to the Tribunal via email on 13 June. The emails included photos of documents relating to works completed to the subject property as part of the grant funded works in 2009. The Landlord's representative objected to the late submission. The Tribunal is not willing to accept or consider such late submission and disregarded the information provided by the Tenant at this late stage in the proceedings. The Tenant had ample opportunity to submit their

evidence in advance of the hearing and should not be seeking to do so three weeks after the hearing.

The Law

37. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, “the Act”, had regard to all the circumstances (**other than personal circumstances**) including the age, location and state of repair of the property. It 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.
38. 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.
39. The Tribunal is aware that **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 stated: *“If there are market rent comparables from which the fair rent can be derived why bother with fair rent comparables at all”*.
40. The market rents charged for assured tenancy lettings often form appropriate comparable transactions from which a scarcity deduction is made.
41. These market rents are also adjusted where appropriate to reflect any relevant differences between those of the subject and comparable rental properties.
42. 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.
43. **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 28 September 2021 at

£1,377 per month. The rent registered on 30 December 2024 subject to the present objection and determination by the Tribunal is not relevant to this calculation.

Valuation

44. In the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the subject property in the open market if it were let today in the condition that is considered usual for such an open market letting.
45. The landlord provided details of three properties which are summarised in paragraph 15 above for the Tribunal to consider.
46. The tenant did not submit any evidence in relation to rental values in the locality, to the Tribunal.
47. Accordingly, the Tribunal considered the value of the property in light of its local knowledge and experience in combination with the landlord's submissions.
48. The Tribunal felt that a hypothetical rent of £2,850 per month – were the property let in the condition and on the terms considered usual for such a letting was appropriate as a starting point. Whilst the £2,850 is below the figure of £3,332 relied upon by the Landlord, the Landlord has not provided a breakdown of the adjustments made to reach this figure. The tribunal does not consider that the three property listings submitted by the landlord are direct comparables based on the images and information provided due to the differences outlined in paragraph 15 above.
49. The tribunal considers that £2,850 is a realistic rent reflecting the size of the subject property, the location, layout, aspect and lack of outside space.
50. 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.
51. The responsibility for internal decoration at the property under the tenancy agreement is borne by the tenant. This is a material valuation consideration and a deduction of 7.5% from the hypothetical rent is made to reflect this liability.
52. The Tribunal made further deductions totalling a further 15% from the hypothetical rent to account for the Tenant providing white goods and other furnishings at the property, and to account for lack of

central heating or double glazing. Also to take into account the small and basic kitchenette.

53. 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 the tenant stated within the hearing that the tribunal should have regard to net migration in relation to scarcity but did not present any data or suggestion in terms of the adjustment that the tenant deemed appropriate when adjusting for scarcity.
54. The Tribunal then considered the decision of the High Court in **Yeomans Row Management Ltd v London Rent Assessment Committee [2002] EWHC 835 (Admin)** which required it to consider scarcity over a wide area rather than limit it to a particular locality. West London is 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 West London.
55. Assessing a scarcity percentage cannot be a precise arithmetical calculation. It can only be a judgement based on the years of experience of members of the Tribunal. The Tribunal therefore 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, the Tribunal found that there was substantial scarcity in the locality and therefore made a further deduction of 20% from the adjusted market rent to reflect this element.
56. 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.
57. The result is an adjusted market rent of £1,767 per calendar month.

Decision

58. The uncapped fair rent initially determined by the Tribunal, for the purposes of section 70, was £1,767 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 £1,863.50 per calendar month. The calculation of the capped rent is shown on the decision form. In this case the lower rent of £1,767 per calendar month is to be registered as the fair rent for this property.

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

60. Details of the maximum fair rent calculations are provided in the separate notice of the Tribunal's decision.

61. Accordingly, the sum that will be registered as a fair rent with effect from 18 June 2025 is **£1,767.00 per month.**

Chairman: Mr A Parkinson MRICS **Date:** 18 June 2025

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.

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).