



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

**Case reference** : **LON/00BK/F77/2024/0631**

**Property** : **Ground Floor Flat, 49 St Petersburg  
Place, Bayswater, London W2 4LD**

**Applicants  
(Tenant)** : **Miss D Kovacevic**

**Representative** : **None**

**Respondent  
(Landlord)** : **Chestermount Estates Ltd**

**Representative** : **Leo Newman**

**Type of application** : **Section 70 of the Rent ACT 1977**

**Tribunal members** : **Mr D Jagger MRICS  
Mr C Piarroux JP**

**Date of Reasons** : **2 May 2025**

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**Reasons**

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**The Tribunal determines £952.00 per calendar month is to be registered as the fair rent for the above property with effect from 2 May 2025 being the date of the Tribunal's decision.**

## **Reasons**

### **Background**

1 On **1 July 2024** the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of **£1,216** per calendar month (inclusive of a service charge of **£69.81** per month and an amount for fuel charges of **£50.00** per month)

2 The rent payable at the time of the application was **£760** per calendar month, inclusive of service charge of **£57.89** per month and a fuel charge of **£39.48** per month effective from the **26 February 2019**.

3 On **13 August 2024** the Rent Officer registered a fair rent of **£1,008** per month, inclusive of the service charge of **£69.81** per month and fuel charge of **£50** per month effective from **13 August 2024**. The rent increase imposed by the Rent Officer had not been “capped” or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 (the Order) which is explained later in this decision.

4 By an email dated **27 August 2024** from Ms Kovacevic, the Tenant objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal.

5 On **18 October 2024** the Tribunal issued Directions which were issued to parties. No submissions were received from the Landlord or the Tenant and the Tribunal determined the rent on **23 December 2024** based upon its own expert general knowledge of rental values in the area, in the absence of submissions from the parties.

6 The decision and summary of reasons were issued on the 3 January 2025. Following this decision, the Tribunal received notification from the Tenant that she had not received the Directions and therefore was unable to take part in the Tribunal. Accordingly, the Tenant requested an application to appeal.

7. On **18 February 2025** Mr A Parkinson was satisfied that the requirements of Rule 51 were met, and the decision of the 23 December 2024 was set aside and new Directions were produced on **18 February 2025**.

### **The law**

When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It also must disregard the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant, on the rental value of the property. Section 70(2) of the Rent Act 1977 imposes on the Tribunal an assumption that the number of persons seeking to become tenants of similar dwelling house in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling houses in the locality which are available for letting on such terms. This is commonly called 'scarcity'.

In *Spath Holme Ltd v Chairman of the Greater Manchester Council* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Tribunal* [1999] QB 92 the Court of Appeal emphasised

- (a) 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
- (b) 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).

The Rent Acts (Maximum Fair Rent) Order 1999 places a "cap" on the permissible amount of the increase of a fair rent between one registration and the next, by reference to the amount of the increase in the United Kingdom Index of Retail Prices between the dates of the two registrations. Where the cap applies the Rent Officer and the Tribunal is prevented from increasing the amount of the fair rent that it registers beyond the maximum fair rent calculated in accordance with the provisions of the Order and the mathematical formula set out in the Order.

By article 2(7) of the 1999 Order the capping provisions do not apply "*in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.*"

### **Hearing and Inspection**

8 It had been agreed with the parties in advance that there would be a hearing held at 10 Alfred Place, London WC1E 7LR, to be followed by an inspection of the premises later in the day.

## **The Hearing**

9 A hearing took place at 10.00am on the **2 May 2025** which was attended by the Tenant Ms Kovacevic. The Tribunal has consideration of the evidence provided by the Tenant who provided evidence in connection with the condition of the property, the general lack of maintenance provided by the Landlord and confirmation this was a studio flat which we will consider in greater detail. The Tribunal explained the methodology for the determination of the new rent based upon the statutory regulations.

## **Facts found with Inspection.**

10 The Tribunal inspected the property on the **2 May 2025** in the presence of the Tenant.

11 The property is a converted ground floor flat which forms part of a Victorian four storey end of terrace building with stucco elevations under a pitched roof.

12 The property is located in an established road close to local amenities, churches and Bayswater station.

13 The studio accommodation comprises: living room/bedroom, kitchenette, bathroom/WC. Outside, there is an allocated parking space on the frontage.

## **Terms of the tenancy**

14 As previously stated, the Tribunal issued revised Directions on **18 February 2025** which set out a timescale for the proceedings. The Landlord's Application for Registration of Fair Rent states the agreement commenced on the **13 October 1986**, but no agreement was submitted. It is assumed such an agreement made the landlord responsible for structural repairs and external decorations. The tenant is responsible for internal decorations. It is assumed the property was let unfurnished.

## **Condition of the Property**

15 The property is in need of general refurbishment and modernisation. The windows are single glazed with secondary glazing installed by the tenant, poorly fitting and require redecoration. The bathroom and kitchen fittings are dated. There is partial gas central heating.

## **Written Evidence**

16 The Tribunal had copies of the Valuation Office Agency correspondence including the previous rent registration together with the calculations for the most recent registration.

17 The Landlord and the Tenant provided a completed Reply Forms. In addition, the Landlord submitted a generic list of comparable evidence ranging from **£1,599 pcm** through to **£2,600 pcm** for one-bedroom flats in the general area. As previously mentioned, this is a small studio flat, and therefore limited weight is placed on this evidence.

## **Valuation**

18 In the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the **open market** if it were let today in the condition that is considered usual for such an open market letting.

19 Based upon the evidence provided by the Landlord together with its expert knowledge of the Bayswater area, the Tribunal considers that the subject property, if finished to a reasonable standard would be likely to attract a rent let on an assured shorthold tenancy, of **£1,700** per calendar month.

20 Next, the Tribunal needs to **adjust that hypothetical rent of £1,700 per calendar month** to allow for the differences between the terms of this tenancy, the unmodernised condition, dated sanitary fittings and kitchen units, defective windows, the lack of white goods, carpets and curtains, and the tenant's decorating responsibilities (disregarding the effect of tenant's improvements and any disrepair or other defect attributable to the tenant).

21 The Tribunal has considered very carefully the information prepared by the parties.

22 Using its own expertise, the Tribunal considers that a deduction of **30%** should be applied in order to take into account the terms of the tenancy, the condition of the property and the lack of carpets, curtains and white goods. This provides a deduction of **£510** per month from the hypothetical rent. **(30%)** This reduces the figure to **£1,190** per calendar month.

23 It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the Tribunal's estimate of the amount by which the rent would need to be reduced to attract a tenant.

## **Scarcity**

24 Thirdly, the Tribunal then went on to consider whether a deduction falls to be made to reflect scarcity within the meaning of section 70(2) of the 1977 Act. The tribunal followed the decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee*, in which it was held

that scarcity over a wide area should be considered rather than scarcity in relation to a particular locality.

25 In the Tribunals opinion there should be a deduction of **20%** for scarcity as it is considered demand outweighs supply of rented properties in the area. This provides a figure of **£238** and therefore reduces the rent to **£952** per calendar month.

## **Conclusion**

26. The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999, because it is below the maximum fair rent of **£1,078.31** per calendar month including **£68.81** per calendar month for services (variable) prescribed by the Order.

27 Therefore, the fair rent to be registered is **£952 per calendar month**. This includes **£68.81** variable service charge. In accordance with the statutory provisions, this takes effect from **2 May 2025** being the date of the Tribunal's decision.

Detailed calculations for the capped maximum fair rent are provided on the back of the decision form.

## **D Jagger MRICS Valuer Chair**

**2 May 2025**

### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpslondon@justice.gov.uk](mailto:rpslondon@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to

appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.