



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

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| Case Reference | : | LON/00AJ/F77/2025/0078 |
| Property | : | 26A Sunnyside Road London W5 5HU |
| Applicant | : | Ms S. Payne (Tenant) |
| Representative | : | None |
| Respondent | : | Notting Hill Genesis (Landlord) |
| Representative | : | None |
| Type of Application | : | S.70 Rent Act 1977 – Determination of a new fair rent |
| Tribunal Members | : | Mr N. Martindale FRICS |
| Date and venue of Meeting | : | 30 September 2025 First Tier Tribunal (London) HMCTS 10 Alfred Place, London WC1E 7LR |
| Date of Decision | : | 30 September 2025 |

REASONS FOR DECISION

Background

- 1 By an application of 15 October 2024 the landlord applied to the Rent Officer for registration of a fair rent. The rent stated as payable at the time of the application was unclear. There was no variable service charge. The landlord sought a new rent of £164.15 pw. The registered rent from 3 May 2018 was £95 pw.
- 2 With effect from 11 December 2024, the Rent Officer registered a fair rent of £137 pw with an uncapped fair rent of £234 pw, no service

charge. There was an objection to the new fair rent from the tenant. The First Tier Tribunal was notified of this objection and a request for a fresh determination of the rent.

Directions

- 3 Directions of 10 March 2025 were issued by the Tribunal, for case progression. Neither party requested a hearing.

Representations

- 4 Standard Reply Forms were issued by the Tribunal prior and both parties invited to complete and return them. The Tribunal did not receive completed forms. The tenant felt that an increase of £5 to £10 per week was sufficient, confirmed that they had to replace bathroom and kitchen themselves and drew attention to personal circumstances related to affordability.

Inspection

- 5 The Tribunal did not inspect the Property. The Tribunal was however able to externally view it from Google Streetview (@ June 2021). The Property appeared to be part of a detached 1910 purpose built late Victorian, since converted into two flats on ground and first floor. There is restricted on street and no off street parking, in what is an established residential area of similar ages and conditions. The road appears to be a side street not subject to heavy road traffic.
- 6 Externally the building containing the Property, appeared to be in good condition, with fair faced brick finish to the front external walls. There was a double pitched slated roof over the building. The Property has one bedrooms, living room/ kitchen, bathroom/wc. There is a garden.
- 7 There appears to be wooden double hung sash single glazed windows and full central heating. The bathroom and kitchen are assumed to be functional but basic. The tenant informed the Tribunal that they had paid for replacement bathroom and kitchen. There is little information on landlord carpets and curtains or white goods if any but it is assumed that these were provided by the tenant as is the usual situation for social housing providers.
- 8 The Tribunal is grateful for such representations as were received from the parties.

Law

- 9 When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had regard to all the 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.

- 10 In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasized
 - (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).
- 11 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an un-modernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 12 On the evidence of the comparable lettings and our own general knowledge of market rent levels in and around Ealing, the Tribunal accepts that the Property would let on normal Assured Shorthold Tenancy (AST) terms, for £500 pw. This then, is the appropriate starting point from which to determine the rent of the Property as it falls to be valued.
- 13 The Tribunal noted the absence of double glazed units to the windows, assumed functional but basic kitchen and bathroom fittings and older carpets and curtain provision. A deduction for these shortcomings amounts to £125, so that the adjusted market rent is £375 pw.
- 14 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was scarcity in the locality of Ealing for this type of property and makes a further deduction of 20% from the adjusted market rent, leaving an uncapped fair rent of £300 pw.

- 15 The fair rent to be registered on this basis alone would be £300 pw, but, the new rent is limited by the statutory Maximum Fair Rent Cap calculation. The MFRC limits any increase to the change in RPI (set two months prior at each date), between the date of the last registration of a fair rent and the current, plus 5%. The calculations are shown in the MFR form and this caps the new fair rent at £143.50 pw. As the MFR cap is below the uncapped fair rent above, the new fair rent will be capped at £143.50 pw. The new fair rent is therefore registered at this figure.
- 16 The Rent Act makes no allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent registered. The landlord is entitled but, not compelled, to charge the tenants rent at the registered figure from the effective date below. The landlord may not charge more than the fair rent but may charge less if it wishes to, or is otherwise required to, under other regulations which may limit its increases in rent as a landlord.

Chairman N Martindale FRICS

Dated 30 September 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).