



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

<b>Case Reference</b>	:	<b>LON/00AN/F77/2021/0159</b>
<b>Property</b>	:	<b>Flat C, Mitford Buildings, Dawes Road, London, SW6 7EW</b>
<b>Applicant</b>	:	<b>Mrs J. Scott (Tenant)</b>
<b>Representative</b>	:	<b>None</b>
<b>Respondent</b>	:	<b>Northumberland and Durham Property Trust Ltd (Landlord)</b>
<b>Representative</b>	:	<b>Grainger Plc</b>
<b>Type of Application</b>	:	<b>S.70 Rent Act 1977 – Determination of a new fair rent</b>
<b>Tribunal Member</b>	:	<b>Mr N Martindale FRICS</b>
<b>Date and venue of Meeting</b>	:	<b>3 June 2021 10 Alfred Place, London WC1E 7LR</b>
<b>Date of Decision</b>	:	<b>3 June 2021</b>

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**REASONS FOR DECISION**

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**Background**

- 1 The landlord applied to the Rent Officer for registration of a fair rent of for the property. The rent registered as payable at the time of the application was £200.50 pw variable, including £12.65 pw ascribed to services, with effect from 15 October 2018.
- 2 On 23 December 2020, the Rent Officer registered a fair rent of £221 pw variable, including £11.88 pw ascribed to services, with effect from 23 December 2020. By a letter dated on or around 22 January 2021 addressed to the Rent Officer, the tenant, objected to the new registered

rent. The objection was subsequently passed to the First Tier Tribunal Property Chamber, for a fresh determination of the fair rent.

### **Inspection**

- 3 The tribunal did not inspect the property however it appears from Google Streetview to part of a substantial 1930's purpose built rather than converted, mixed use block on 5 levels. There are 4 residential floors over ground floor commercial and retail premises. It is located on Dawes Road the A3219, a busy road near its junction with North End Road, Fulham. The exterior of the building, facing the road appeared in good condition. Access to the property appeared to be from the rear. There was no additional information on the condition of the interior.
- 4 The property comprised 4 rooms, kitchen, bathroom, WC. The notes show there is a full gas central heating, but no double glazing. The tribunal made the assumption common in older established tenancies that there were no carpets or curtains included in the letting by the landlord.
- 5 The tenant did not report any improvements which they had carried out.

### **Evidence**

- 6 Directions, dated 8 April 2021, for the progression of the case were issued. Both parties made brief written representations. The tenant questioned the provision of services, their nature and their value to the Property. However, although requested, neither party was able to provide a copy of the original historic tenancy which might have clarified and justified a change from the current established basis of a small variable service charge. Neither party requested a hearing. The case was determined only on the papers received.
- 7 The Rent Officers fair rent registration having been challenged, the tribunal was now required to determine the new fair rent.

### **Law**

- 16 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.

- 17 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).

## **Decision**

- 18 Where the condition of a property is so much 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 unmodernised 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. We therefore concur with the landlord's approach.
- 19 On the evidence of the tribunal's general knowledge of market rent levels in this location, the subject property if modernized and in good order would let on normal Assured Shorthold Tenancy (AST) terms, for £575 per week.
- 20 The tribunal makes allowance for the absence of carpet and curtains, for the lack of double glazing and for its location on a busy road junction, above commercial premises. These adjustments total a £125 deduction producing a market rent of £450 per week, prior to considering scarcity.
- 21 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was a substantial scarcity in the locality of Greater London and therefore makes a further deduction of 20% from the adjusted market rent to reflect this element. This deduction results in an uncapped rent of £360 pw inclusive any services provided in the common areas.
- 22 The tribunal is also required to calculate the Maximum Fair Rent Cap. This is determined by a formula under statutory regulation, which whilst

allowing for an element of inflation may serve to prevent excessive increases. The Cap as the date of the tribunal's determination produces a figure of £223.88 pw. This figure is a combination of the previously registered rent being subject to the change in RPI between registration dates rounded up to the nearest 50p and with the element of the current variable service charge contribution of £11.88 pw, which is not subject to any uplift in RPI.

- 23 As this cap is below the uncapped fair rent determined by the Tribunal for the purposes of S.70, the new fair rent will be limited to £223.88 per week. This new rent will take effect from and including the date of determination, 3 June 2021.

**Chairman N Martindale**

**Dated 17 June 2021**