



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

Case reference : **LON/00AW/F77/2021/0269**

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**

Property : **62 Radnor walk London SW3 4BN**

Applicant : **Mrs P Chaplin**

Representative : **In person**

Respondent : **Northumberland & Durham Property Trust Ltd**

Representative : **Ned Rankovic**

Type of application : **Section 70 Rent Act 1977**

Tribunal member : **Mr Charles Norman FRICS
Valuer Chairman**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **17 November 2021**

Date of Reasons : **26 January 2022**

REASONS

Covid-19 pandemic: description of Determination

This has been a remote determination on the papers which has been consented to by the parties. The form of remote determination was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and no-one requested the same. The documents to which the Tribunal were referred comprised approximately 50 pages, the contents of which the Tribunal has noted.

Background

1. On 29 June 2021, the landlord applied to the Rent Officer for registration of a fair rent of £8,660.65 per quarter for the above property.
2. The previous rent was £7,531 per quarter.
3. On 5 August 2021, the Rent Officer registered a fair rent of £8060 per quarter with effect from 23 September 2021.
4. By email dated 1 September 2021 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. On 21 September 2021, the Tribunal issued directions setting the matter down for determination by written submissions unless either party requested a remote video hearing, which neither did. The tenant was directed to complete a Reply form and supply documents upon which it wished to rely by 19 October 2021 and the landlord likewise by 26 October 2021. The landlord made a written submission.
6. The Tribunal made its determination on 17 November 2021 and the landlord subsequently requested Reasons.

The Property

7. The Tribunal viewed images of the property supplied from Google Street View and considered all documents supplied by the parties. It noted that this is a mid-Victorian mid-terraced house in Chelsea. The house is arranged on basement, ground, first and second floors. It comprises five rooms, two kitchens, one shower room/WC and one bathroom/WC.

Evidence

8. The landlord provided a Reply form but did not refer to any comparables. The landlord stated that the property lacked central heating. The tenant did not respond to the Directions.

The Law

9. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances (other than personal circumstances) including the age, location and state of repair of the property. Section 70 is set out in the Appendix below.
10. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Tribunal* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Tribunal* [1999] QB 92 the Court of Appeal emphasised 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 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).

Valuation

11. The Tribunal using its own knowledge and experience found that the rental market rent of the property had it been fully modernised and in good condition would be £6,500 per month or £19,500 per quarter. However it was clear to the Tribunal that the property was not in such a condition and accordingly the following downward adjustments were required:
 - No modern kitchen: 10%
 - No modern bathroom: 10%
 - Lack of white goods, curtains/carpets, and more onerous redecorating obligation compared with an AST: 10%
 - No central heating: 10%
12. This aggregated to 40% or £7,800 per quarter leaving an adjusted market rent of £11,700 per quarter.
13. The Tribunal found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (£2,340 per quarter) from the adjusted market rent to reflect this element. The Tribunal took Judicial Notice of long housing association and local authority waiting lists in Greater London.
14. It follows that the Tribunal found that the fair rent was £9,360 per quarter. subject to application of the Rent Acts (Maximum Fair Rent) Order 1999.
15. However, this amount was limited by the Rent Acts (Maximum Fair Rent) Order 1999, which prescribed a lower maximum fair rent of £8,451.50, the calculations for which were supplied with the Notice of the Tribunal's Decision.
16. Accordingly, the sum of £8451.50 per quarter was determined as the fair rent with effect from 17 November 2021 being the date of the Tribunal's decision.

Mr Charles Norman FRICS
26 January 2022

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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 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.

Appendix

Rent Act 1977

Section 70 Determination of fair rent.

(1) In determining, for the purposes of this Part of this Act, what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to—

(a) the age, character, locality and state of repair of the dwelling-house, . . . F1

(b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture [F2, and]

[F2(c) any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.]

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses 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.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;

(b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his;

(c)(d)..... F3

(e) if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

F4[(3A) In any case where under Part I of the Local Government Finance Act 1992 the landlord or a superior landlord is liable to pay council tax in respect of a hereditament (“the relevant hereditament”) of which the dwelling-house forms part, regard shall also be had to the amount of council tax which, as at the date on which the application to the rent officer was made, was set by the billing authority—

(a) for the financial year in which that application was made, and

(b) for the category of dwellings within which the relevant hereditament fell on that date,

but any discount or other reduction affecting the amount of council tax payable shall be disregarded.

(3B) In subsection (3A) above—

(a) “hereditament” means a dwelling within the meaning of Part I of the Local Government Finance Act 1992,

(b) “billing authority” has the same meaning as in that Part of that Act, and

(c) “category of dwellings” has the same meaning as in section 30(1) and (2) of that Act.]

(4) In this section “improvement” includes the replacement of any fixture or fitting.

[F5(4A) In this section “premium” has the same meaning as in Part IX of this Act, and “sum in the nature of a premium” means—

(a)any such loan as is mentioned in section 119 or 120 of this Act,

(b)any such excess over the reasonable price of furniture as is mentioned in section 123 of this Act, and

(c)any such advance payment of rent as is mentioned in section 126 of this Act.]

(5).....