



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

Case Reference : **LON/00AH/F77/2021/0204**

HMCTS code : **V: CVPREMOTE**

Property : **55D Selhurst Road SE25 5QB**

Landlord : **Bluebell Housing Ltd**

Representative : **Not Represented**

Tenant : **Ms M Barnstable**

Representative : **Simon Clark**

Type of Application : **Determination of a fair rent under
section 70 of the Rent Act 1977**

Tribunal Members : **Mr Anthony Harris LLM FRICS FCI Arb
Mr O Miller BSc**

Date of Decision : **15 July 2021**

Date of Reasons : **15 July 2021**

REASONS

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has not been objected to by the parties. The form of remote hearing was V: CVPEREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The Applicant has filed a Bundle of Documents which totals 102 pages and to which page references are made in this decision.

Background

1. On 13 January 2021, the Landlord applied for registration of a fair rent of £950 per month.
2. The Rent Officer registered a rent of £510.00 per month. The rent was registered on 18 March 2021 and is effective from 18 March 2021. This was a 1st registration and therefore the capping provisions of the Maximum Fair Rent Order do not apply
3. Accommodation is self-contained converted flat on the top floor of a four-storey converted house. Accommodation consists of 2 rooms kitchen and bathroom/WC. The flat has central heating.
4. The passing rent was £390 per month.
5. The Tenant objected to the registered rent on 12 April 2021 and the matter was referred to the tribunal.
6. On 20 May 2021, the tribunal issued Directions for proceeding by written representations unless a hearing was requested. The Tenant requested a hearing. The Landlord did not respond to the directions until the night before the hearing when a postponement was requested. No detailed reasons were given. In pursuance of the overriding objective the tribunal considered it be wasteful of resources to postpone the hearing as the landlord had not previously participated. Additionally a request to participate by video was made approximately 90 minutes before the hearing was due to commence. This was also refused as being too late.

Evidence

The Landlord's Case

7. The Landlord did not produce any evidence.

The Tenant's case

8. On behalf of the Tenant, it was stated she had lived in the property for over 50 years without complaint. The Tenant accepts the flat has not been modernised but prefers to have a modest rent rather than improved amenities. The flat is a top floor flat in the building which does not have a lift. There are 3 other flats in the building with the basement being owner occupied and the ground and 1st floors being let. In theory there is shared use of the garden but this is not maintained and is therefore unusable. There is no written tenancy agreement.
9. The Tenant prefers to live within her own means which she can do from her pension and has not therefore made demands on the landlords for decoration or modernisation as she does not wish to claim housing benefit. The flat is however in poor internal condition. This is not intended as a criticism of the current landlord.
10. The Tenant has obtained details of how the registered rent was calculated which was by taking a market rent of £850 per month, deducting £300 per month for condition and a further £40 per month for scarcity to arrive at a rent of £510 per month.
11. Broadly speaking the Tenant accepts as possible a market rent of £850 per month as a maximum and the condition adjustment figure of £300 per month as a minimum but does not agree with the scarcity adjustment of £40 per month (4.7%).
12. For the Tenant, Mr Clark referred to a number of tribunal appeal decisions where a figure for scarcity of 20% of the rent had been adopted. He submitted evidence in support of the argument there was significant scarcity of similar property available in the market.
13. In considering market rents Mr Clark produced evidence of one-bedroom flats in Croydon at rents ranging from £750 per month to £800 per month. Anything above that is for purpose-built flat in self-contained blocks providing superior accommodation. A Zoopla screenshot showed an average market rent for one-bedroom flats of £836 per month in the locality and at the lower end would be somewhere below £795 per month.
14. The rent officer's referred to the poor condition of the property and made a deduction of £300 per month.

Inspection

15. In accordance with the directions the tribunal did not inspect the property. The tribunal took into account the description of the property and relied on its experience in assessing the type of property from a photograph on Street view.

The Law

16. When determining a fair rent, the Tribunal, in accordance with section 70 of the Rent Act 1977, has regard to all the circumstances (other than personal circumstances) including the age, location and state of repair 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 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.
18. The rent has not been previously registered, and the Rent Acts (Maximum Fair Rent) Order 1999 therefore does not apply.

Discussion and Valuation

19. In addition to the evidence supplied on behalf of the Tenant the tribunal relied on its knowledge and experience in assessing the level of rent.
20. The tribunal firstly has to consider the rent in accordance with section 70 of the Rent Act as a market rent less scarcity. The tribunal has considered all of the rental evidence and applied its knowledge and experience and considers that the subject flat in this location and in the condition which the market would expect would be £850 per week. The tribunal has adjusted for the condition of the property, lack of white goods and for the different terms of the tenancy as compared with a standard assured shorthold tenancy and makes a deduction of 35 % for these factors.
21. The Tribunal found that there was substantial scarcity of letting property in the locality of Greater London and using its knowledge and experience made a deduction of 20% from the adjusted market rent. The calculations of the s70 rent are set out below.

| | | PCM |
|----------------------------|-----|------------------|
| Market rent | | £ 850.00 |
| less condition | 35% | <u>-£ 297.50</u> |
| adjusted rent | | £ 552.50 |
| | | |
| less scarcity off adj rent | 20% | <u>-£ 110.50</u> |
| Fair rent | | £ 442.00 |

22. The rent to be registered is £442 per month.

23. The effective date is the date of the decision.

**Anthony Harris LLM FRICS FCI Arb
Valuer Chair**

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.