



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

**Case Reference** : **LON/00AJ/F77/2021/0044**

**Property** : **131 Cavendish Ave, London W13  
OJY**

**Applicant** : **Mrs E Wilkin**

**Representative** : **In person**

**Respondent** : **BPT (Bradford Property Trust) Ltd**

**Representative** : **Ned Rankovic (written  
representations)**

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

**Tribunal Members** : **Mr Charles Norman FRICS (Valuer  
Chairman)**

**Date of Decision** : **1 October 2021**

**Date of Reasons** : **17 November 2021**

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**REASONS**

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## **Background**

1. On 19 August 2020, the landlord applied to the Rent Officer for registration of a fair rent of £1425 per month for the above property.
2. The rent payable at the time of the application was £950 per month.
3. On 8 October 2020, the Rent Officer registered a fair rent of £960 per month with effect from 7 November 2020.
4. By letter dated 3 November 2020, the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Tribunal.
5. On 1 July 2021, the Tribunal issued directions setting the matter down for determination by written representations, unless either party requested a hearing, which neither did. The landlord was directed to serve any documents or evidence upon which it sought to rely by 15 July 2021 and the tenant likewise by 29 July 2021. The landlord was permitted to make a Reply by 5 August 2021. Neither party requested an inspection which the Tribunal was only carrying out on an external basis and when fully justified.
6. As neither party had completed a Reply Form appended to the directions, the Tribunal considered that it did not have sufficient information to make a determination. Consequently, it directed the landlord to complete this Reply by 3 September 2021 and provided an opportunity for the tenant to respond by 10 September 2021. The landlord provided a Reply.
7. The Tribunal made its determination on 1 October 2021 and the landlord subsequently requested reasons.

## **The property**

8. From Google Streetview the property is an interwar purpose-built ground floor flat.

## **Evidence**

### The Landlord's Case

9. The property comprises a large living room, kitchen, two bedrooms and bathroom. There is access to a private garden. In 2018 the tenant was temporarily relocated from the property and the landlord carried out works, including structural works. The landlord rewired the property and carried out complete refurbishment of all the rooms including new carpets. The kitchen and bathrooms were replaced, and appliances provided by the landlord. The windows were replaced with UPVC double glazing, and the outside of the property was painted. The landlord supplied copy invoices totalling £124,067.16 although much of this expenditure relates to structural

underpinning and professional fees which would not have a direct bearing on the rental value of the subject flat.

### The Tenant's Case

10. The tenant did not respond to the appeal.

### **The Law**

11. 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.
12. 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**

13. As neither party referred to any comparables, the Tribunal considered whether the starting point adopted by the Rent Officer was correct. This was £1500 per month which would apply to a modern letting of a similar property in a good and fully modernised condition. Having regard to the nature of the property, the Tribunal agreed with Rent Officer as a starting point. In view of the extensive refurbishment which had been carried out the Tribunal did not consider it necessary or appropriate to make any downward adjustments for condition.
14. The Tribunal found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% (£300 per month) from the adjusted market rent to reflect this element.
15. Therefore the fair rent would be £1200 per month unless the Rent Acts (Maximum Fair Rent) Order 1999 ("The Order") would continue to apply.
16. The most significant part of the Order in relation to this case is as follows:
  - 2 (7) This article does 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.

17. The Tribunal was therefore required to consider whether the refurbishment would have increased the new rent of £1200 per month by more than 15% of £950. This is £144 per month.
18. In order to assess this, the Tribunal considered the rent adjustments that would be required to assess the fair rent now if the refurbishment works had not been carried out. It found that these would be as follows:

New kitchen /white goods	10%
Central heating	10%
New bathroom	10%
New UPVC double glazed windows	10%
<b>Total</b>	<b>40%</b>

19. Therefore, without these works, the rent to be registered would be £1500 less 40% (£600) or £900 per month, less an adjustment for scarcity of 20% (£180 per month). This would leave £720 per month.
20. Therefore, the difference in the rent to be registered with and without the refurbishment works would be £1200 less £720 or £480 per month. This greatly exceeds the 15% threshold of £144 per month in relation to the previous registered rent of £950 per month (see above). Therefore, after careful consideration, the Tribunal found that the Rent Acts (Maximum Fair Rent) Order did not apply to this re-registration.
21. For the above reasons, the Tribunal found that the fair rent in respect of the property was £1200 per month with effect from 1 October 2021 being the date of the Tribunal's decision.

Mr Charles Norman FRICS  
17 November 2021

## **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.