

## Notice of the Tribunal Decision and Register of Rents under Assured Shorthold Tenancies (Section 22 Determination)

Housing Act 1988 Section 22

### Address of Premises

26 Hutchingsons Road, New  
Addington, Croydon, Surrey, CR0 0BD

### The Tribunal members were

Judge Robert Latham  
Mr S Johnson MRICS

### Landlord

Luca Barbuto

### Address

71 Embleton Road, London, SE13 7DQ

### Tenant

Ms Helen Scerri

1. The rent is: £ 850 Per month (excluding water rates and council tax  
but including any amounts in paras 3)

2. The date the decision takes effect is:

20 March 2021

\*3. The amount included for services is/is  
negligible/not applicable

N/A

Per

\*4. Service charges are variable and are not included

5. Date assured shorthold tenancy commenced

23 October 2020

6. Length of the term or rental period

12 months

7. Allocation of liability for repairs

Section 11 Landlord and Tenant Act  
1985

8. Furniture provided by landlord or superior landlord

Unfurnished

9. Description of premises

One bedroom flat with a living room, kitchen and bathroom on the ground floor of a two  
storey block. Exclusive use of garden.

Chairman

Robert Latham

Date of Decision

9 September  
2021



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

**Case reference** : **LON/00AZ/MDR/2021/0011**

**HMCTS code** : **V: CVPREMOTE**

**Property** : **26 Hutchingsons Road, New Addington, CR0 0BD**

**Applicant** : **Ms Helen Scerri**

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

**Respondent** : **Mr Luca Barbuto**

**Representative** : **Mr Adebola Oyinlade  
(Access Estate Agents)**

**Type of Application** : **Determination of Market Rent**

**Tribunal Members** : **Judge Robert Latham  
Mr S Johnson MRICS**

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

**Date of Decision** : **9 September 2021**

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**DECISION**

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The Tribunal determines the market rent for 26 Hutchingson's Road, New Addington, CR0 0BD to be £850 per calendar month. This rent shall have effect from 20 March 2021, namely the date of the application.

## **Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has not been objected by the parties. The form of remote hearing was V: SKYPEREMOTEOURT. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The tribunal has had regard to the documents to which reference is made in this decision.

### **The Application**

1. On 20 March 2020, the tenant issued an application referring to the Tribunal an excessive rent demanded in respect of an assured shorthold tenancy pursuant to section 22 of the Housing Act 1988 (“the Act”). On 5 October 2020, the landlord had granted the tenant an assured shorthold tenancy of a one bedroom flat at 26 Hutchingson’s Road, New Addington, CR0 0BD (“the Flat”) at a rent of £995 per month.
2. On 16 June 2021, the Tribunal issued Directions:
  - (i) The tenant completed a form providing details of the Flat and provided detailed submissions in support of her application. She referred to a number of comparables in support of her contention that the rent charged is excessive. Her bundle extends to 52 pages.
  - (ii) The landlord completed a form providing details of the Flat and provided more concise representations. No comparable evidence was provided. His bundle extends to 15 pages.
  - (iii) The tenant provided brief submissions in response (3 pages). She noted that the landlord had provided no evidence of comparables.
3. Today, the Tribunal held a hearing. Ms Helen Scerri, the tenant, attended and gave evidence. Mr Luca Barbuto attended and was represented by Mr Adebola Oyinlade from Access Estate Agents. Mr Oyinlade gave evidence. He had arranged the original letting.

### **The Law**

4. Section 22(1) of the Housing Act 1988, provides that a tenant under an assured shorthold tenancy may make an application to the tribunal seeking a determination of the rent which, in the tribunal's opinion, the landlord might reasonably be expected to obtain under the assured shorthold tenancy.
5. Section 22 further provides (emphasis added):

“(3) Where an application is made to the appropriate tribunal under subsection (1) above with respect to the rent under an assured shorthold tenancy, the appropriate tribunal shall not make such a determination as is referred to in that subsection unless they consider—

(a) that there is a sufficient number of similar dwelling-houses in the locality let on assured tenancies (whether shorthold or not); and

(b) that the rent payable under the assured shorthold tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

(4) Where, on an application under this section, the appropriate tribunal make a determination of a rent for an assured shorthold tenancy—

(a) the determination shall have effect from such date as the appropriate tribunal may direct, not being earlier than the date of the application;

(b) if, at any time on or after the determination takes effect, the rent which, apart from this paragraph, would be payable under the tenancy exceeds the rent so determined, the excess shall be irrecoverable from the tenant.”

### **Our Determination**

6. The Flat at 26 Hutchingson’s Road is part of a local authority development which was constructed in about 1980. There are 79 properties in Hutchingson’s Road. Ms Scerri stated that some 9 properties had been acquired under the Right to Buy legislation and were now privately owned, whilst 70 remain as social housing. There are problems of antisocial behaviour in the area.
7. The Flat has one bedroom, a living room, kitchen and bathroom. It is on the ground floor and has exclusive use of a garden.
8. Ms Scerri is disabled. She stated that she had an urgent need to secure alternative accommodation and was therefore willing to accept a tenancy of the Flat despite concerns about its condition and the rent. The previous tenant was still in occupation when she first viewed the Flat. Mr Oyinlade introduced her to the Flat. Apparently, he had purchased the property where Ms Scerri had been living with her family.
9. Ms Scerri described how there were open live wires and broken sockets when she first viewed the Flat. These health and safety issues were resolved before Ms Scerri moved into occupation. However, there were other outstanding issues which had not been resolved. The windows were ill fitting and draughty. The floor was bouncy and floor panels became loose. The water heater was dated. The garden was in a poor condition.
10. Ms Scerri complained of a number of items of disrepair which subsequently arose. However, these are not directly relevant as we are required to determine whether the asking rent of £995pm was excessive when the tenancy was granted. In determining this, it is apparent that little work had been done on the

Flat since it was constructed some 30-40 years earlier. The windows and other fittings had reached the end of their natural lives. The bath was badly stained.

11. In determining whether the rent demanded was excessive, Ms Scerri referred the Tribunal to a number of comparables:
  - (i) A one bedroom flat marketed in June 2021 at Markfield, Forestdale, CRO 9HL for £875. This was a recently refurbished double bedroom ground floor flat.
  - (ii) A second one bedroom flat Markfield which was let for £850 pm. This had double glazing, a fitted bathroom and kitchen and a garage. It was let, having been marketed for some 300 days. This was a recently refurbished double bedroom ground floor flat.
  - (iii) A one bedroom flat above commercial premises in Central Parade, New Addington, which was let for £875 pm. This had been marketed for 84 days. The flat had been recently modernised throughout. However, we accept that a flat above commercial premises is a poor comparable.
  - (iv) A one bedroom flat in Pixton Way, Forestdale advertised for £850 pm.
  - (v) A one bedroom at Courtwood Lane, Forestdale, for £201 pw (£871 pm).
12. Ms Scerri also referred the Tribunal to nine “zoopla” estimates of rents which could be obtained for one bedroom flats in New Addington. These ranged from £700 to £850 pm. We are satisfied that this did not constitute reliable comparable evidence.
13. Mr Oyinlade did not adduce any comparable evidence. He stated that he had attended to represent Mr Barbuto and was not aware that such evidence was required. However, Access Estate Agents are based in New Addington and he stated that he was responsible for a large number of the lettings in the area. He referred to a one bedroom flat which had been let at 182 Homestead Way (the neighbouring street to the Subject Flat) for £1,000 pm, and a one bedroom flat above his office in New Addington, currently let through his agency at £850 pm. However, both of these are different types of property to the subject flat, which is a 1980s purpose built ground floor flat. He had limited knowledge of any other lettings of one bedroom properties and he stated the last one bedroom flat he had let prior to the hearing was the subject Flat.
14. The Tribunal has also had regard to a one bedroom flat at Holmbury Grove, Fetherbed Lane, Forestdale, which is being marketed for £875 pm. This is a top floor flat with a modern kitchen. It also has a garage.
15. This is an Expert Tribunal which has knowledge of this area of Croydon. We are satisfied that New Addington and Forestdale are in the same locality. Both areas benefit from the Croydon tram system. They are some 2.5 miles apart by road/tram and approximately 1.5 miles apart ‘as the crow flies’. The Tribunal is further satisfied that Forestdale is somewhat more desirable than the area in which the Flat is situated, with a higher proportion of privately owned

accommodation and a well-established rental market. We note Ms Scerri's evidence of antisocial behaviour in the vicinity of the Flat. Whilst we accept that the Flat has the benefit of a garden, this was in a poor condition. A number of the comparables have been recently refurbished; all seem to be of a higher quality than the subject Flat. The better condition would offset any advantage of the garden.

16. We therefore determine the market rent for the Flat to be £850 per month. We consider the two flats at Markfield to be the best comparables. We are satisfied that the rent of £995 pm which was demanded for the Subject Flat was significantly higher than the landlord might reasonably expect to secure for a flat in this location and condition. The market rent of £850 per month which we have assessed shall have effect from 20 March 2021, namely the date of the current application.

**Judge Robert Latham**  
**9 September 2021**

### **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 a party wishes to appeal 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.

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