



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

**Case reference** : **LON/00AZ/F77/2021/0018**

**Property** : **21c Devonshire Road Forest Hill  
London SE23 3EN**

**Applicant** : **Mr Ken Green**

**Respondent** : **Regis Group PLC**

**Representative** : **None**

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

**Tribunal members** : **Mr D Jagger MRICS**

**Date of Extended  
Reasons** : **15th July 2021**

**Decision**

**£115.00 per week is to be registered as the fair rent for the above property with effect from 7th June 2020 being the date of the Tribunal's decision.**

The reasons for this decision are set out below.

## **Reasons**

### **Background**

On 14th February 2021 Regis Group Plc the landlord, applied to the Valuation Office Agency (Rent Officer) for registration of a fair rent of £505.50 per month (£117.12 per week) for the property.

The rent payable at the time of the application was £101.50 per week, effective from 19th February 2018 This was the rent registered by the Rent Officer.

On 1st. September 2020 the Rent Officer registered a fair rent of £105 per week. The rent increase imposed by the Rent Officer has not been “capped” or limited by the operation of the Rent Acts (Maximum Fair Rent) Order 1999 ( the Order).

By letter dated 5th September 2020 the tenant objected to the rent determined by the Rent Officer and the matter was referred to this Tribunal.

### **The law**

When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, must have regard to all the circumstances including the age, location and state of repair of the property. It also must disregard the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant, on the rental value of the property.

Section 70(2) of the Rent Act 1977 imposes on the Tribunal an assumption that the number of persons seeking to become tenants of similar dwelling house 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. This is commonly called ‘scarcity’.

In *Spath Holme Ltd v Chairman of the Greater Manchester Council (1995) 28 HLR 107* and *Curtis v London Rent Assessment Tribunal [1999] QB 92* the Court of Appeal emphasised

- (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).

The Rent Acts (Maximum Fair Rent) Order 1999 places a “cap” on the permissible amount of the increase of a fair rent between one registration and the next, by reference to the amount of the increase in the United Kingdom Index of Retail Prices between the dates of the two registrations. Where the cap applies the Rent Officer and the Tribunal is prevented from increasing the amount of the fair rent that it registers beyond the maximum fair rent calculated in accordance with the provisions of the Order and the mathematical formula set out in the Order.

By article 2(7) of the 1999 Order the capping provisions do 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.”*

### **Facts found including Inspection**

**In view of the current restrictions the Tribunal did not inspect the property and relied upon information provided by the parties, the Rent Officer together with its expert knowledge.**

The property is a converted ground floor self contained flat located in an established residential area amongst properties of a comparable type and age convenient to local amenities

The property forms part of a Victorian building and is located on the ground floor approached via a communal hallway.

The accommodation comprises: living room, bedroom/kitchen area, bathroom

There is **no** gas a central heating system provided to the property.

### **Terms of the tenancy**

The tenant stated that this tenancy began in 1979 although the precise date is not known and a copy of the agreement has not been provided. It is agreed that the landlord is responsible for structural repairs and external decoration; the tenant is responsible for internal decorations. The property is let unfurnished

### **Tenant's improvements**

The tenant has provided information regarding improvements made to the property by him These include replacement immersion heater, new flooring, roof repairs and cleaning of communal areas.

## **Evidence**

The Tribunal had copies of the Valuation Office Agency correspondence including the rent registers effective 19th February 2018 and 1st September 2020.

## **Valuation**

In the first instance the Tribunal determined what rent the landlord could reasonably be expected to obtain for the property in the **open market** if it were let today in the condition that is considered usual for such an open market letting.

We consider that the subject property, if finished to a reasonable standard would be likely to attract a rent let on an assured shorthold tenancy, for around £277 per week (£1200 per month)

Next, we need to **adjust that hypothetical rent of £277** per week to allow for the differences between the terms of this tenancy, the lack of white goods , no floor coverings, no gas central heating, kitchen area located in the bedroom, damp to bathroom and dated kitchen and sanitary fittings. (disregarding the effect of tenant's improvements and any disrepair or other defect attributable to the tenant).

Using our own expertise we considered that deductions of 40% should applied in order to take into account each of these matters. This provides a deduction of £111 from the hypothetical rent.

It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital costs but is the tribunal's estimate of the amount by which the rent would need to be reduced to attract a tenant.

## **Scarcity**

Thirdly, the tribunal then went on to consider whether a deduction falls to be made to reflect scarcity within the meaning of section 70(2) of the 1977 Act. The tribunal followed the decision of the High Court in *Yeomans Row Management Ltd v London Rent Assessment Committee*, in which it was held that scarcity over a wide area should be considered rather than scarcity in relation to a particular locality. Greater London is considered to be an appropriate area to use as a yardstick for measuring scarcity and it is clear that there is a substantial measure of scarcity in Greater London.

We therefore made a further deduction of approximately 20% (£33) from the adjusted market rent to reflect this element to produce a figure of **£133 per week**.

## **Conclusion**

The capping provisions of the Rent Acts (Maximum Fair Rent) Order apply and therefore the above figure does not apply. The capped fair rent in accordance with the calculations is **£115.00 per week**.

Therefore, the fair rent to be registered is limited by the Rent Acts (Maximum Fair Rent) Order 1999 with effect from the 7th June 2021 being the date of the Tribunals decision.

Detailed calculations are provided on the back of the decision form already issued and dated 7th June 2021.

D Jagger  
15th July 2021