



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

**Case Reference** : **KA/LON/00BJ/F77/2021/0251  
CVPREMOTE**

**Property** : **19 Denton Street, London, SW18  
2JR**

**Applicant** : **Mr Cyril Hill**

**Representative** : **-**

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

**Representative** : **-**

**Type of Application** : **Section 70 Rent Act 1977 – to  
determine a fair rent**

**Tribunal Members** : **Judge Professor Robert M Abbey  
Mrs Sarah Redmond BSc (Hons)  
MRICS**

**Date of Decision** : **18 October 2021**

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**REASONS for DECISION**

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1. **Decision**

1.1 The decision of the tribunal is that the fair rent to be registered is £185.00 per week payable with effect from 18 October 2021 being the date of the tribunal's decision.

1.2 The registered rent is not to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)). This has been a remote video hearing which has not been objected to by the parties. The form of remote hearing was CVPREMOTE. A face-to-face hearing was not held because it was not practicable in the context of the COVID-19 Pandemic and all issues could be determined in a remote hearing. The documents that the Tribunal were referred to are in a bundle, the contents of which have been noted.

2. **Background**

2.1 On 15 June 2021 the landlord applied to the Rent Officer for registration of a fair rent of £212.75 per week for the property.

2.2 By a letter dated 10 August 2021 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the tribunal.

3. **Inspection**

3.1 The tribunal did not inspect the property as it considered the documentation and information before it in the trial bundle enabled the tribunal to proceed with this determination and also because of the risks, restrictions and regulations arising out of the Covid-19 pandemic.

4. **Evidence**

4.1 The tribunal received written representations from the tenant only.

4.2 A request was received for a hearing at which oral representations could be made. That hearing took place on 18 October 2021 by video hearing but neither party attended.

5. **The law**

5.1 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 disregarded the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.

5.2 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 emphasised:

5.2.1 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

5.2.2 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).

5.3 The Rent Act (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 date of the two registrations. Where the cap applies, the Rent Officer and the Tribunal are 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.

5.4 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.

## **6. Reasons for the decision**

6.1 In coming to its decision the tribunal had regard to the representations supplied to it by the tenant.

6.2 The landlord submitted the application form to the Rent Officer and this was disclosed to the Tribunal. On 30 June 2021 the Rent Officer gave notice of consultation to the parties that was to take place by phone on 16 July 2021. His notes on the consultation are included in the bundle. The landlord did not appear to participate.

6.3 Having regard to the absence of comparables supplied by the landlord and drawing on the members' own general knowledge of market rent levels in the area of Wandsworth London SW18 we concluded that an appropriate open market rent for the subject property in good condition, centrally heated and with modern fittings and white goods,

curtains and carpets and in line with current market expectations would be £460.00 per week.

6.4 However, the subject property is not in the condition considered appropriate for a modern letting at a full market rent. The property is a converted self-contained ground floor flat comprising three rooms kitchen bathroom but with no central heating. The property is single glazed and heated by two gas fires only. From the photos supplied it was readily apparent that there were several areas of plaster damage needing remedial action. The kitchen and bathroom fittings are all old and, in the kitchen, somewhat sparse. Therefore, it was first necessary to adjust that hypothetical rent of £460.00 per week to allow for the substantial differences between the condition considered usual for such a letting and the actual condition of the subject property as observed by the tribunal but disregarding:

6.4.1 the effect of any disrepair or other defect attributable to the tenant or any predecessor in title of the tenant, and

6.4.2 any relevant improvements carried out by the tenant.

6.5 In coming to our decision we made adjustments to reflect the above matters. There is no simple or precise arithmetical approach which can be adopted to reflect each of the nuances we have to take into account. We can but take a broad view. Drawing on our accumulated expertise in these matters we concluded that an appropriate adjustment to make was in the region of 50% from the hypothetical market rent. In arriving at this adjustment, we have not based it specifically upon capital cost. It is our estimate of the amount by which the rent would have to be reduced to attract a tenant.

This leaves an adjusted market rent for the subject property of £230.00 per week.

6.6 We found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of about 20% from the adjusted market rent to reflect this element. Accordingly, we determined that the uncapped fair rent was £185.00 per week.

6.9 Accordingly, the sum of £185 per week will be registered as the fair rent with effect from 18<sup>th</sup> October 2021 being the date of the Tribunal's decision. This sum is less than the maximum fair rent of £206 per week.

Judge Professor Robert M Abbey

18 October 2021