

IN THE UPPER TRIBUNAL (LANDS CHAMBER)



**Neutral Citation Number: [2019] UKUT 0334 (LC)
Case No: RAP/16/2019**

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

LANDLORD AND TENANT – RENT DETERMINATION – PARTIES ENTITLED TO REASONS

**IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE
FIRST-TIER TRIBUNAL (PROPERTY CHAMBER)**

BETWEEN:

JOHN NIGEL PRESTON

Appellant

- and -

**AREA ESTATES LTD C/O HAMWAYS
MANAGING AGENT**

Respondent

**Re: First Floor Flat,
24 Drayton Green,
West Ealing,
London, W3 0JF**

Determination on written representations

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Introduction

1. This is Mr Preston's appeal from the determination made by the First-tier Tribunal ("the FTT") of the rent payable for his first-floor flat at 24 Drayton Green, West Ealing, from 1 June 2018 pursuant to section 14 of the Housing Act 1988. The respondent landlord has chosen not to participate in the appeal.

2. The rent proposed by the landlord, with effect from 1 June 2018, was £1,138 per month. The existing rent was £1,105 per month; the applicant contended for a rent of £1,250 to £1,300 per month less a deduction of 55% for the condition of the property, for terms and conditions and for tenant's improvements.

3. FTT's decision, dated 23 July 2018, was made on the basis of written submissions by both parties, and without a hearing. The applicant chose not to have the FTT inspect the flat. The FTT's decision is brief. It recorded that Mr Preston relied upon comparable properties and earlier decisions of the FTT. It also recorded that the landlord had referred to similar properties nearby being marketed for more than £300 per week, and had made deductions of 10% for the tenant's improvements and 10% for the condition of the property.

4. The FTT summarised section 14 of the Housing act 1988 and then said:

"The Tribunal considered the evidence provided by both parties. Looking at the evidence and using its expert knowledge, the Tribunal considered the open market value of the flat to be £1,525 per calendar month. On the basis of the evidence provided by both parties and in the absence of an inspection, deductions of 10% for condition, 10% for tenant's improvements and 5% for carpets and white goods were adopted. This totals 25% and accordingly the Tribunal considers the Respondent's proposed rent of £1,138 per calendar month to be correct."

5. The applicant says that he has not been given any explanation for the decision made and that evidence has been disregarded. Why, he asks, are the parties asked to suggest the rent level if their proposals are to be ignored?"

6. I agree. As the appellant says, the decision explains nothing. The appellant is entitled to know why his comparables were rejected – there may have been perfectly good reasons but they should be provided – particularly as the FTT arrived at a rent, before deductions, higher than either party had proposed. He is also entitled to know why the FTT arrived at the deductions it made. And if there are matters of which the FTT has expert knowledge then the parties are entitled to be given the opportunity to comment on them; that should be clear as a matter of general principle, and particularly in this case in light of the High Court's decision in *Preston v Area Estates Ltd* [2014] EWHC 1206 (Admin), which related to the 2012 rent for the same flat.

7. The appeal is allowed and the matter is remitted to the FTT to be determined afresh.

A handwritten signature in black ink, appearing to read 'E Cooke', enclosed within a faint rectangular border.

Upper Tribunal Judge Elizabeth Cooke
30 October 2019