

Rent Assessment Committee: Summary reasons for decision.**Housing Act 1988****Address of Premises**

14A Mutley Plain
Plymouth
Devon PL4 6LA

The Committee members were

Mr J S McAllister FRICS (Chairman)
Miss C Gorna
Mr T Shobbrook BSc FRICS

1. Background

On 16 October 2003 the four tenants at the above property referred to the Committee an application under Section 22 of the Housing Act 1988. This application was for a determination of a rent under an Assured Shorthold Tenancy.

With their application the tenants sent a copy of the tenancy agreement. The agreement was for a fixed term commencing on 1 September 2003 and ending on 27 June 2004. The rent stated in the agreement was £881.50 per month (made up of £55, £50 and £45 per week dependant upon room size). The rent was later to be stated to be actually £870 per month.

2. Inspection

The Committee inspected the property on 11 December 2003 and found it to be in good condition.

Briefly the property comprised a first and second floor maisonette over a shop with the following accommodation. Ground floor – entrance hall and staircase leading to first floor – inner landing, landing, lounge, fitted kitchen, bathroom (off half landing) bedroom: second floor – landing, three bedrooms. Services provided were apparently all mains including gas-fired central heating. The front elevation windows were

UPVC double-glazed and there were some “Velux” double glazed skylights in bedrooms on the second floor. There was apparently no garden or parking let with the property.

The tenancy was furnished and the Committee were provided with a copy of an Inventory of furniture, fixtures and fittings.

The Committee noted that the landlords were responsible for paying all water rates due on the property.

3. Evidence

The committee received written representations from both the landlords, Mr and Mrs C MacDonald, and the four tenants, Hazel Harake, Carina Milligan, Gemma Andrews and Xiao Xiao Yang which was copied to the parties.

A hearing was held at the John Kitto Centre, Honicknowle Lane, Plymouth PL5 3NG on 11 December 2003 in the Chapel Room at which oral representations were made by the landlords and tenants (see also below - 5. The Decision).

4. The law

In accordance with the terms of section 22 of the Housing Act 1988 the Committee may only determine a rent if it considers:-

- 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 subject assured shorthold tenancy in question is not significantly higher than the rent which the landlord might reasonably expect to achieve having regard to the level of rent payable under those other tenancies.

If both of these conditions are satisfied the Committee will proceed to determine what rent it considers the landlord might reasonably be expected to obtain under the subject tenancy.

5. The decision

Firstly following a request from the landlord, Mr MacDonald, the Committee had to consider whether or not it had jurisdiction in this case. Mr MacDonald referred to the Committee the notes at the end of the tenants' application form, in particular the first note which states:

"An application cannot be made if:-

- (a) The rent payable under the tenancy is a rent previously determined by a Rent Assessment Committee; or*
- (b) The tenancy is a replacement tenancy and more than six months have elapsed since the beginning of the original tenancy. A replacement tenancy is an assured shorthold tenancy that came into being on the ending of a tenancy which had been an assured shorthold of the same, or substantially the same, property and the landlord and tenant under each tenancy were the same at that time....."*

Mr MacDonald asked the Committee to consider whether or not the subject tenancy was indeed a replacement tenancy following the one in 2002/2003.

The Committee decided after a short adjournment that the tenancy was a new tenancy and not a replacement tenancy. They took this view because there were two new tenants (Gemma Andrews and Xiao Yang) in the subject tenancy and only two of the tenants from the original tenancy remained parties to the new tenancy. The Committee also took the view that the alteration of the premises between the original and the subject tenancy did not constitute a substantial change to the premises. Accordingly the Committee decided that it did have jurisdiction to continue with their consideration.

With regard to the tenants' written and oral evidence, the tenants stated that the core of their case was the fact that the rents of the individual rooms had not been reduced following the alterations made to the property during the summer of 2003. Briefly those alterations in effect created a new first floor bedroom from the former lounge

and the creation of an inner landing on the first floor which reduced the area of the kitchen. In summary the tenants felt that the rent of each room should have been reduced by £10 per week on the basis that the alterations to the property had made living in the property more cramped and difficult than they had originally anticipated.

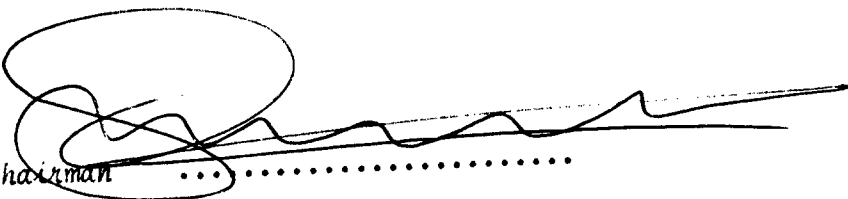
Mr MacDonald, the landlord, in his submissions informed the Committee that in essence he had not actually increased the rents at all from the original tenancy. He informed the Committee that the flats were still rated as Grade A (the highest grade) by the University of Plymouth Student Accommodation Service. Furthermore he stated that the grading remained the same as in 2002 and had not been reduced so to speak following the alterations made to the property. He also emphasised to the Committee a copy of a letter from the above Student Accommodation Service to his wife dated 7 November in which the Service had stated that the rental charges were within the recommended rental band for properties that include water rates only and that are situated in the area of Mutley Plain. That letter also referred to their recorded details of the rent as follows, one room at £45, one room at £50 and two rooms at £55.

In coming to its decision the Committee had regard to the written rental evidence supplied by both parties and the members' own general knowledge of market rent levels in the area of Plymouth and Devon.

After careful consideration of all the evidence etc. the Committee took the view that in all probability the alterations to the property would have slightly reduced the rental value of the individual rooms further more they had some sympathy with the tenants and the fact that they were now living in more cramped, slightly reduced living conditions than hitherto. However, the Committee had to carefully consider the rental value of the current property under the terms of the existing tenancy as seen on the date of the inspection.

In conclusion, therefore, the Committee took the view that the rent passing (£870 per calendar month) was not significantly higher than the general rental values of similar properties in the area. Accordingly the Committee were unable to make a

determination as to the actual rental value of the subject property, which does of course mean that there will be no alteration by the Committee to the passing rent.


Chairman

Dated 23rd Dec. 2003

This document contains a summary of the reasons for the Rent Assessment Committee's decision. If either party requires extended reasons to be given, they will be provided following a request to the committee clerk which must be made within 21 days from the date of issue of this document.