

Rent Assessment Committee: Reasons for decision.

Rent Act 1977

Address of Premises

22 South Road
Hailsham
BN27 3JQ

The Committee members were

Mr. R. Norman (Chairman)
Mr. R.A. Wilkey FRICS FICPD
Mr. T. Wakelin

1. Background

On 6th June 2005 the landlord applied to the rent officer for registration of a fair rent of £100 per week for the above property.

The rent payable at the time of the application was £349.50 per calendar month.

The rent was previously registered on 5th June 2003 with effect from the same date at £349.50 per calendar month following a determination by the rent officer.

On 14th July 2005 the rent officer registered a fair rent of £388.00 per calendar month with effect from that date.

By a letter dated 19th July 2005 the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection

The Committee inspected the property on 28th September 2005 and found it to be in fair condition.

The property is an end of terrace property with on the ground floor a reception room, a hallway and kitchen. On the first floor there were originally three bedrooms but one of them had been converted into a bathroom with wc. Outside are small front and back gardens and

there is no off street parking provision. The property is on a busy main road and there are shops nearby.

The landlord in his letter dated the 19th July 2005 had stated that gas central heating had been installed and we noted that there was a central heating system serving five radiators. At the inspection the tenant explained that she had arranged for the installation of gas fired central heating with the assistance of a government grant and with the approval of the landlord but at no cost to him. She also confirmed that the landlord had recently put in two new UPVC double glazed windows; one in the bathroom and one in the kitchen and had carried out some work to the brickwork surrounding the kitchen window. We assumed that that would be the installation of wall ties referred to by the landlord in his representations dated 9th August 2005. The tenant also told us that about five years ago the landlord had fitted new UPVC double glazed windows in the two front windows of the property. In the kitchen, the units were installed by a previous tenant and are no longer attractive. The landlord had replaced the sink unit some time ago. The bathroom suite was adequate but dated.

The tenant has installed heaters in the hall and bathroom and two gas fires. The carpets and curtains are the tenant's as are the white goods. The tenant, with the consent of the landlord, removed the wall separating the two original reception rooms and created the larger single reception room, thereby improving the layout of the ground floor.

3. Evidence

The Committee received written representations from the landlord and on behalf of the tenant and these were copied to the parties.

A hearing was arranged for 11.00 am on the 28th September 2005 in Eastbourne but neither party attended. We would have liked to have had more evidence from the landlord about the central heating but as he did not attend either the inspection or the hearing and we were unable to contact him by telephone we could not ask him about it. We had clear evidence from the tenant that the installation of the central heating had not been paid for by the landlord and the letter from the landlord dated 19th July 2005 had not stated who had

installed the central heating or at what cost. In the absence of further evidence we found as a fact that the central heating had not been installed by the landlord and consequently it was not taken into account in calculating the uncapped rent.

Had we had evidence that the landlord had installed the central heating at his expense in addition to the other work he had carried out since the last registration of a rent, the resulting change in the condition of the property would have meant that the uncapped rent would have been higher but because of the operation of the Rent Acts (Maximum Fair Rent) Order 1999 the rent which would have been registered would still have been the same namely £389 per calendar month.

4. The law

When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had 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.

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

- (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).

5. Valuation

Thus in the first instance the Committee 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. It did this by having regard to the evidence supplied by the parties and the Committee's own general knowledge of market rent levels in the area of Eastbourne and nearby towns and villages. Having done so it concluded that such a likely market rent would be £550 per calendar month.

However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £550 per calendar month to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as observed by the Committee (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Committee considered that this required a deduction of £105 per calendar month.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £35 per calendar month.

The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity.

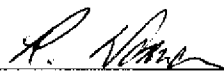
This leaves a net market rent for the subject property of £410 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £410 per calendar month.

However, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be registered in the present case is the lower sum of £389 per calendar month (Details are provided on the back of the decision form).

Accordingly the sum of £389 per calendar month will be registered as the fair rent with effect from 28th September 2005 being the date of the Committee's decision.

Chairman 

Dated 28.09.05