

REASONS FOR DECISION OF RENT ASSESSMENT COMMITTEE

Reasons requested by Landlord/Tenant under section 10 of the Tribunals and Enquiries Act 1992 and Regulation 10a of the Rent Assessment Committees (England and Wales) Regulations 1971.

SUMMARY

PROPERTY: 7 Lennard Row, Aveley, Essex RM15 4AH
Ref. No. CAM/00KG/F77/2003/124

Date of Decision: 16 October 2003

Landlord: R A and N E Butt (rep Sanders & Co – Solicitors)
Tenant: Ms Petina Ann Durkin

Rent at date of Application: £52.00 per week (RO 12.7.01 wef 21.8.01)
Rent proposed by Applicant (7.7.03): £90.00 per week
Rent determined by Rent Officer: £57.50 per week (RO 30.7.03 wef 21.8.03)
Rent determined by Committee: £57.50 per week (£61.00 before capping)

MEMBERS OF THE COMMITTEE

Mr G M Jones - Chairman
Mr F W James FRICS
Mr R G Martin

1. THE PREMISES

- 1.1 The type of property: Two-bed terraced house
Location: In private road near centre of Aveley
Rent Officer's survey: 10.7.01

Inspection:

Very small terraced house fronting directly onto unmetalled private road. Tiny rear garden. Exterior in reasonable condition – some rot in back windows. Back wall recently rendered and kitchen extension re-tiled. As let, property had two small living rooms, kitchen, ground floor WC (no bathroom) and two bedrooms. Space heating is by tenant's appliances. Interior transformed by tenant, who fitted new kitchen units (inc sink unit); fitted shower in old pantry; opened up staircase; moved loft hatch to improve access; knocked living rooms into one. Boarded floor in living room springy but usable; will probably need replacement fairly soon. Tenant says it is supported by car jacks (not seen). Internal decorations by tenant.

2. THE TENANCY

- 2.1 Tenancy commenced: About 1974
Period of tenancy: Weekly
Noteworthy terms: Let completely unfurnished
Landlord & Tenant Act 1985 s.11 applies

3. THE APPEAL

- 3.1 Previous fair rent effective from 21.8.01: £52.00 per week
Rent Officer inspection/consultation: Yes
Objection dated 19.8.03 by: Landlord
Hearing: No

4. THE LANDLORD'S CASE

- 4.1 See written representations with papers. Rear extension roof retiled (£1050) rear of property rendered (£485) and two gas checks since last registration.

5. THE TENANTS' CASE

- 5.1 See written representations with papers dated 18.9.03. Extensive tenant's improvements.

6. THE LAW

- 6.1 In short, the task of the Committee is to determine a 'fair rent' within the meaning of section 70(1) of the Rent Act 1977, taking into account all relevant circumstances (other than personal circumstances). A fair rent is a market rent adjusted for scarcity and disregards under section 70(3) – in particular, tenants' improvements. A discount will be appropriate under section 70(2) where there is a significant scarcity of similar dwellings available for letting in the locality. Rent capping may apply (see below). The rent will be exempt from capping if the landlord carries out repairs or improvements to the property as a result of which the uncapped fair rent determined for the property is at least 15% more than the existing registered rent. Full Reasons (if requested) will set out the relevant legal principles in detail.

7. THE DECISION

- 7.1 Summary of findings and conclusions:-
- 7.1.1 The Committee accepts the landlord's evidence as regards recent works and the tenant's unchallenged evidence as regards tenant's improvements. The Committee observes that the landlord's works were by way of repair as opposed to improvement.
- 7.1.2 The parties do not offer evidence of rental value and the Committee does not know how the Rent Officer reached her conclusion.

- 7.1.3 Direct comparables for this very small property will be few and far between. The Committee's own knowledge and experience suggests as a starting point an open market rent of £105 per week for this house, let on assured shorthold terms with central heating, modernised and with carpets curtains and white goods, but with a ground floor WC (directly off the kitchen) and no bathroom. It is unrealistic to pretend it has a bathroom and then deduct its rental value, given that there is nowhere to put a bathroom. The tenant's shower room (which must in any event be disregarded) is shoehorned into a tiny space directly off the kitchen. The Committee deducts 10% for lack of central heating; 7.5% for lack of carpets, curtains and white goods; 5% for disrepair and 5% for the tenant's improvements other than the shower (which has already been disregarded).
- 7.1.4 The adjusted open market rent is thus £76.13 (say £76.00).
- 7.2 Tenant's improvements (to be disregarded) have been taken into account above.
- 7.3 The locality: Grays-Thurrock and hinterland.
- 7.4 Scarcity: Substantial - 20%. Rounding slightly, this leads to an uncapped rent of £61.00.
- 7.5 Capping applies. 15% of £52.00 per week is £7.80 (£405.60 per annum). The landlord's works are substantially works of repair rather than improvements and do not, in the judgment of the Committee, increase the rental value of the property by as much as £405.60 per annum. Exempt: No.
- 7.6 The Committee takes the view that the starting figure for RPI is the figure for July 2001 (when the rent was previously entered on the Register) and not August 2001 (when the said rent took effect). Although the result is illogical, that is the literal interpretation of the provisions of the Rent Acts (Maximum Fair Rent) Order 1999. The capped fair rent is thus £57.50 per week.

Geraint M Jones MA LLM (Cantab)
Chairman

Note: This is a summary of the Committee's reasons for its decision. Should you require more detailed reasons, they can be supplied but only if a written request is received by the Panel Office within 21 days from receipt of this document. The papers will then be returned to the Chair for such detailed reasons to be prepared.

CAUTION

For the purposes of reaching a decision the Committee inspected the subject property. Such inspection is not a structural survey and only takes a few minutes. Any comments about the condition of the property in this Statement of Reasons are made as a result of observations made for the limited purposes of the Committee rather than a detailed inspection. Please do not rely upon such comments as a professional opinion of the structural condition of the property.