

**SOUTHERN
RENT ASSESSMENT PANEL & TRIBUNAL**

Statement of Reasons
for the Decision by a Committee of the Panel upon an
Inspection carried out on
Tuesday 18th October 2005

RENT ASSESSMENT COMMITTEE
Mr Michael R Horton FRICS (Chairman)
Mr R D Yeomans

<i>Reference</i>	<i>Address</i>	<i>Tenant</i>	<i>Landlord</i>
CHI/24UP F77/2005/0139	6 Grayshott Close Winchester Hants SO22 6JA	Mr R Barnes	Trendgrove Properties Limited

Summary

- 1.1 This was an objection by the Landlord against the registration by the Rent Officer of a Fair Rent for the property of £520.00 p.c.m. registered on 25 July 2005 and effective from 21 August 2005. This rent was less than the maximum permitted by the *capping* legislation referred to below.

The Landlord had requested a fair rent of £1,470.00 p.c.m.

The previous Fair Rent, registered on 21 August 2003 and effective from that date, was £491.50 p.c.m. The uncapped fair rent at that time was noted as £520.00 p.c.m.

- 1.2 Neither party requested a Hearing but the Tenant submitted a written representation.

The Statutory Provisions

- 2.1 It may be helpful if we describe the legal background to the function we have to perform. We have paraphrased the provisions of section 70 of the Rent Act 1977 ("the Act") below, in the hope of making them reasonably comprehensible. The actual terms of the Act are in some ways rather more complex than our description indicates. This might suggest that we have failed to apply the terms of the Act properly. Therefore we make it plain that we have in practice carried out our work by reference to the actual wording of the Act and the decided cases upon it, and not by reference to this short description.
- 2.2. Section 70 of the Act provides that in determining what rent is the fair rent for a property let under a regulated tenancy we must have regard to all the circumstances (other than personal circumstances) surrounding the letting. In particular we are to have regard to the property's age, character, locality and state of repair.
- 2.3 Section 70 (2) of the Act requires us to take account of the letting market in the locality (which must be a substantial one) where the property is situated. We have to assume

that the number of tenants looking for property to rent is roughly the same as the number of similar properties available. If there are, in our view, more tenants than properties, and if we consider that this has pushed up open market rents substantially, then we have to estimate the financial effect on open market rents of this "scarcity". In that case we must make an allowance for it when we fix the fair rent.

- 2.4 Section 70 (3) requires us to disregard certain other matters when we make our determination. First, we must disregard any disrepair or other defect because of a failure by the tenant under the regulated tenancy (or any of his predecessors under the same tenancy) to comply with any of its terms. Secondly, we must also disregard any improvement carried out by the tenant or any of his predecessors, except one that he was required to make by the terms of his tenancy. An "improvement" for these purposes usually includes the replacement of any fixture or fitting, but not a repair.
- 2.5 The Rent Act (Maximum Fair Rent) Order 1999 ("the Capping Order") came into effect on 1 February 1999. In January 2000, the Court of Appeal declared that it had been improperly made because the Act under which it had been purported to be made did not give Parliament power to bring in secondary legislation of this nature. That decision in turn was reversed by the House of Lords in December 2000, and so the provisions of the Order apply to our decision.

The effect is to limit the amount of any increase in the fair rent by the way that the Order sets out, and which we have described below.

Inspection

- 3.1 On Tuesday 18 October 2005 the Committee, in the presence of the tenant, inspected the property. The Landlord was not represented.
- 3.2 The Committee found the property to comprise a two story detached house with attached single garage having brick and tile hung elevations under a concrete tiled roof. It is understood the house was constructed circa 1962.
- 3.3 Grayshott Close forms part of an established residential area on the northern outskirts of Winchester. It is a popular neighbourhood readily accessible to most urban amenities.
- 3.4 Accommodation is arranged as follows: Ground Floor Entrance Hall with Cloakroom Front Living Room (or study) Rear Lounge/Dining room with door to garden. Kitchen with door to garage.. First Floor – Landing. Three Bedrooms and Bathroom/w.c.
Outside Garage and good sized garden
- 3.5 The Committee noted the general level of obsolescence affecting the property and the failure of the Landlord to maintain the property in a satisfactory condition although since the last registration a full gas fired central heating installation with combination boiler has been fitted, replacing the previous partial installation.

The appearance of the house in what is generally an area of well maintained properties is one of neglect with most of the sub-frames to the metal windows and other external joinery suffering from serious wet rot.

The Tenant has repeatedly had to cover the garage roof with tarpaulins to reduce the ingress of water that is now affecting the main joists.

From a safety point of view the Committee were concerned to see that the dated electrical installation, which has the mains switch gear and fuses in the garage, is extremely vulnerable to the damp.

There are indications of leaking gutters and a temporary support has been provided to the porch roof.

The now dated kitchen had previously been upgraded by the Tenant and the bathroom fittings are becoming dated.

But for the efforts of the Tenant who we understand has patched up parts of the decaying joinery and painted the exterior, which we understand has not been decorated by the Landlord for many years, the property would now be in an even poorer state.

Representations

- 4.1 No representation was received from the Landlord but those of the Tenant, which were copied to the Landlord's agent, highlight the poor state of the building and lack of maintenance over many years by the Landlord.

The Tenant pointed out that while an increase to the rent was expected the huge increase is unfair due to the poor state of the property.

Conclusions

- 5.1 In coming to their decision the Committee are directed by the provisions of Section 70 of the Rent Act 1977 and, in particular, they have to ignore any improvements carried out by the Tenant, otherwise than in pursuance of the terms of the tenancy. They also have to disregard any failure by the Tenant to fulfill their repairing obligation e.g. internal decorating.
- 5.2 The Committee carefully considered their findings at the time of the inspection and the representations submitted by the parties.
- 5.3 With regard to the general state of the property they found it to have been poorly maintained and not in the condition most prospective tenants would expect today.
- 5.4 No evidence of rents in respect of other let properties in the area was provided either by the Landlord or the Tenant.

Accordingly the Committee decided to rely on their own expertise and experience of rental values in the area and they agree with the Rent Officer that a Landlord could reasonably expect to let a property of this type in this location at a rent of £800.00 per calendar month.

However, at this figure a prospective tenant would expect to find a house in substantially better condition with modern kitchen, bathroom, full central heating and other modern amenities. They would also expect to find, at this level of rent, basic furnishings which would include at least a cooker, carpets and curtains.

The Committee's experience indicates that with a considerably greater volume of property now available to rent tenants are becoming increasingly discerning and more selective so far as the standard of the property is concerned.

Further, the “unfurnished” open market assured shorthold tenancy letting would almost certainly be for a term of some six to twelve months and on this basis the landlord would normally be expected to assume responsibility for internal decorations

It is necessary for the Committee to adjust the rental of £800.00 per month to reflect these differences.

The committee noted the Rent Officer in his deductions had included a figure of £50.00 per month which this Committee do not consider an appropriate adjustment. It also appeared the Rent Officer was unaware that full central heating was now installed although, for a house of this type, a combination boiler provides a fairly basic hot water supply

- 5.6 The Committee arrived at the following valuation:

Base open market rent: £800.00 per month

Less adjustments:

Very poor condition of external joinery	£52.00 pm	
Basic hot water supply.	£8.00 pm	
No basic furnishings e.g. carpets, cooker etc.	£60.00 pm	
Tenants internal decorating responsibility	£50.00 pm	
Basic kitchen, bathroom and wiring	£65.00 pm	
Other disrepair/obsolescence	£45.00 pm	<u>£280.00 per month</u>

Adjusted Rent **£520.00 per month**

- 5.9 In para. 2.3 above we summarized section 70(2) of “the Act”. Under this provision we have to consider whether or not scarcity of this type of property available for letting in the area is *substantial*. If we find this to be the case then we have to give consideration to making an appropriate deduction.


Appeal Court decisions dictate we have to consider the scarcity factor over a wide region and this Committee considers the appropriate area to be broadly that of South Hampshire lying south of a line drawn east/west through Winchester.

Within this region the Committee, based on their own knowledge and experience, no longer consider scarcity to be *substantial* within the meaning of the “Act” and concluded no further deduction should be applied.

- 5.10 The Committee then considered whether the improvement carried out to the property, by replacing a partial central heating system with a full installation improved the previous registered rent by more than 15% thereby taking it outside the capping provisions of the Rent Act (Maximum Fair Rent) Order 1999.
- 5.11 The maximum Fair Rent that could be registered by the Committee under the “Capping Order” is £546.00 p.c.m. As the Committee have in any event arrived at a lower valuation the matter becomes irrelevant

Decision

- 6.1 The Rent Assessment Committee determine the Fair Rent of **6 Grayshott Close, Winchester, Hampshire at £520.00 per calendar month.**
- 6.2 In arriving at their decision the Committee considered their inspection of the premises, the information supplied and representations made to them. They have disregarded the personal circumstances of the parties, have applied their collective knowledge and experience of the locality and they have had regard, in particular, to the provisions of Section 70 of the Rent Act 1977.
- 6.3 This decision was made on Tuesday 18 October 2005 which becomes the effective date of the registration.



MICHAEL R HORTON FRICS
(Chairman)