

**Rent Assessment Committee: Reasons for decision.
Housing Act 1988**

Address of Premises

11 Roslyn Court
St. Johns
Woking
GU21 7QH

The Committee members were

Mr J H S Preston JP FRICS
Miss J Dalal

Background

1. Mr Martin Durden, who with his wife Gloria Durden is tenant of the above premises, applied to the Committee under the provisions of Section 22 (1) of the Housing Act 1988 for a determination of a rent under an Assured Shorthold Tenancy. The application was undated.
2. The Assured Shorthold Tenancy in respect of 11 Roslyn Court is for a period of twelve months from 10 December 2005. The rent is £850.00 per month. There are no service charges payable by the tenant. The landlord is Miss J O Ransom, whose agents, Keelans, prepared the Agreement.
3. Under the terms of the Tenancy Agreement, the tenant's liabilities include: -
Payment of Council Tax
Payment of charges for gas, water, electricity
Maintenance of the interior of the premises and contents in accordance with an inventory and schedule of condition at the start of the tenancy.
To allow the landlord or his agent to enter the premises with or without workmen. Except in an emergency, the landlord or his agent will give the tenant not less than 24 hours written notice.
4. The landlord's obligations incorporate the statutory repairing obligations. These include the repair of certain installations for the supply of water, electricity and gas; sanitary appliances including basins, sinks, baths and sanitary conveniences; and for space heating and water heating; but not other fixtures, fittings and appliances for making use of the supply of water and electricity.
5. The tenant has notified the landlord as to the claimed inadequacy of the space heating system and has sought a reduction in rent.

Inspection

6. The Committee inspected 11 Roslyn Court on 23 February 2006, in the presence of the tenant. The property is a second floor front flat. Access is by a communal staircase and lobby. There is no lift and no entry-phone system. It has the following accommodation: -

Entrance Hall; Living Room; Kitchen; Bathroom with bath and shower over and wash basin; WC; Store Cupboard with cold water storage tank and hot water cylinder; Two Double Bedrooms with built-in wardrobes.

The flat is well laid out with all rooms accessed from the central hall. The floors to the principal rooms are polished wood block. The doors are four-panel style in natural wood. The windows are UPVC double-glazed units with opening casements. The kitchen is fitted with modern units and cupboards and a full range of white goods. The bathroom and WC are tiled and with modern sanitary ware. The property is clean and well decorated.

The flat is let fully furnished with good quality modern furniture, apart from linen. The inventory was not available for inspection but is not in dispute.

A Flexcell central heating system is installed in the ceilings of the flat. This is designed to provide thermostatically controlled space heating in each room. There is a thermostat in each room apart from the bathroom, WC and store. The thermostats are all similar in type and have an on-off switch and a numbered dial. Apart from that in the living room, all thermostats were switched in the 'off' position at the time of the Committee's inspection

A garage is included in the tenancy.

7. The tenant drew the attention of the Committee to the following: -
- The thermostat in the kitchen was broken and unserviceable.
 - The thermostat in the main bedroom only worked when set on 5.
 - There appeared to be no heating in the bathroom and WC. As a result the former was subject to condensation problems and was not comfortable in cold weather.
 - The electric light in the store cupboard was not working.
 - The cupboard smelt strongly of smoke.
 - They found it necessary to use their own portable electric heaters to maintain a reasonable level of comfort.

Evidence

8. The Committee had a copy of the Assured Tenancy Agreement referred to above.
9. Both parties had made written representations, including evidence of rental values of comparable flats in the locality.
10. The tenant requested a hearing at which oral representations could be made. The landlord did not wish to attend the hearing, which for convenience and with both parties agreement, was held on the premises after the inspection.

The Hearing

11. The Chairman opened the hearing explaining its formalities and identifying the issue as being solely that of the rental value of the premises as let, in accordance with the statutory provisions set out below. Any other matters in dispute between the parties were outside the power and authority of the Committee. He then invited the tenant to make representations and to give evidence.
12. Mr and Mrs Durden explained that they had taken the tenancy at fairly short notice, having moved from Exeter. It was important for them to have furnished accommodation. The landlord and/or her agents assured them that the flat was heated with a system installed in the ceiling. Soon after their arrival it became apparent that the heating system was slow to respond after being switched on and to changes in settings. They found that there was no heating to the bathroom and WC and that the thermostat in the kitchen did not work. The tenant claimed that the landlord and/or her agents was aware of these defects at the start of the tenancy. The tenant subsequently found that the heating in the main bedroom also did not respond to the controls.
13. The landlord's agents were slow to respond to the tenant's requests for the defects to be rectified and at the date of inspection they had not been dealt with.
14. The tenant submitted that the rent of £850 per month was too high for an 'unheated' flat, by reference to rents currently payable for comparable properties. They provided evidence in the form of advertisements for two bedroom flats in Woking and St Johns let at £750 per month and a one-bedroom flat in Roslyn Court advertised at £625 per month. It was not stated in the advertisements what form of heating was provided.

The Law

15. Section 22 of the Housing Act 1988 sets out the prescription for reference of excessive rents to a Rent Assessment Committee (1)... 'for a determination of the rent which in the committee's opinion the landlord might reasonably be expected to obtain under the assured shorthold tenancy. (2) No application may be made under this section if certain conditions apply, which is not relevant to this case. (3)...the committee shall not make such a determination...unless they consider (a) that there is a sufficient number of similar dwelling houses in the locality let on assured tenancies. and (b) that the rent payable under the assured shorthold tenancy in question is significantly

higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

The Reasons and Decision

16. The Committee were of the opinion that all maintenance of the Flexcell heating system is the liability of the landlord and that the system should have been checked and, if necessary, put in full working order before the start of the tenancy and thereafter maintained in full working order.
17. The flat is spacious, well laid out and furnished and decorated to a good standard.
18. The Flexcell heating system is unconventional in modern terms but has the capacity to provide a reasonable level of comfort provided that its operation is understood and recognised as being quite different from that for a conventional gas-fired water-filled radiator system. The lack of any heating in the bathroom and WC is inexplicable and is a depreciatory factor. No evidence was submitted as to the cost of heating the flat.
19. The Committee considered the documentary evidence from both parties as to rental value. From this and from their own knowledge of rental values in the area, they took the view that for two bedroom flats the range of values was from £750 to £875 per month. All such flats had some form of heating, whether gas-fired, night-storage heaters or electric panel heaters. Gas-fired heating was the preferred option but the differential in rental value of flats with either form of heating was not large. Other factors such as the size and layout of the rooms the location, the standard of furnishings, fittings and white goods were also important.
20. The Committee decided that there was a sufficient number of similar properties in the locality let on assured tenancies.
21. The Committee concluded that the rent payable for No.11 Roslyn Court, as let and in its present state and condition - that is, among other things, with a somewhat inflexible heating system which does not extend to the whole flat even when in full working order - was not significantly higher than the general level of rents payable in the market for similar properties in the locality. In the opinion of the Committee in this case "significant" would be in excess of 10%. On the evidence before the Committee, this did not apply and accordingly they did not make a determination in response to the application.

Signed  J H S Preston JP FRICS (Chairman)

Dated 23 February 2006