

Rent Assessment Committee: Full Reasons for Decision.

Rent Act 1977

Address of Premises

2 Perrymans Cross
Hastings Road
Northiam
Rye
East Sussex TN31 6HX

The Committee members were

Mr B J C Mire BSc (Est Man) FRICS (Chairman)
Lady Davies FRICS

1. Background

On the 18th January 2005 the Landlord's Agents applied to the Rent Officer for registration of a fair rent of £80 per week for the above property.

The rent payable at the time of the application was £68 per week which had been registered on and effective from the 17th April 2003 following a determination by the Rent Officer.

On the 24th February 2005 the Rent Officer registered a fair rent of £75 per week with effect from the 17th April 2005.

By a letter dated 25th February 2005 the Landlord's Agents 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 26th April 2005 and found it to be in very dated condition.

We noted that parts of the property date from around 1730, although the precise age could not be determined.

It has a part tile, part thatch roof and due to movement in the structure, has uneven walls (which are not plastered internally in certain areas), floors and windows. The

brick entrance path had collapsed and was well worn making it quite dangerous and slippery in the wet.

The accommodation is spread over three storeys. The front door leads straight into the kitchen/living room that has restricted headroom. A corridor leads to a back door and to the bathroom/WC. A steep staircase gives access to the first floor master bedroom and a door off and an even steeper, almost upright staircase, gives access to the second bedroom located within the loft void and thereby having very restricted head room and sloping ceilings. An uninsulated galvanised steel cold water tank is located within bedroom 2 and an uninsulated galvanised hot water tank is situated in the master bedroom and heated by a Rayburn cooker/water heater in the kitchen.

3. Evidence

The Committee had received copies of the written representations from the Landlords to the Rent Officer and copies had been passed to the Tenant who had made no comment in response.

They had advanced the argument that the repairs they had undertaken should exclude the registration from the capping provision of the Maximum Fair Rent Order. They also provided details of the terms upon which the adjoining cottages had been let and stated that in their view there was no scarcity of accommodation in this locality.

Neither party requested a hearing at which oral representations could be made.

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 Landlord and the Committee's own general knowledge of market rent levels in the area of East Sussex which it is aware have fallen or at best stagnated over the last couple of years. 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 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 and any improvements undertaken by the tenant).

The Committee considered that this required a deduction of £200 per month to make allowances for:

Lack of carpets, curtains and white goods	£15
Lack of central heating	£50
Tenant's internal decorating liability	£20
Lack of modern kitchen	£30
Lack of modern bathroom	£25
No double glazing/poor windows	£30
Poor arrangement of accommodation	£30

When properties are let in the open market in this area, the landlord generally includes carpets and curtains and white goods. None are included in this letting. We made an allowance to reflect the amount of the reduction in rent that we believe a prospective tenant would expect to negotiate in the open market because of their absence.

In just the same way the kitchen and bathroom provided by the landlord in this property were not of the standard that would be expected of a property in good modern letting condition. We considered that a prospective tenant for this property in the open market would expect to pay less rent because of the inferior nature of this facility.

We also have to make an adjustment to reflect the different obligations about repairs and decorations, between the usual open market assured shorthold tenancy and a regulated tenancy. The assured shorthold tenant normally has no responsibility for repairs and decorations. A regulated tenant is usually responsible for them (subject to the statutory exceptions where they apply) so far as the inside of the property is concerned. Someone taking a tenancy in the open market that imposed those additional obligations upon him would be prepared to pay less by way of rent than he would pay if the landlord was to be responsible for them. The reduction would usually relate to what it would cost to keep the inside of this home in good decorative order and repair. Our adjustment reflects our view of the sort of reduction that would be likely to be made in the open market to deal with the point.

The Committee considered whether or not the likely market rent for the premises had been inflated due to any scarcity of accommodation in the locality and did not

consider that there was any substantial scarcity element in this location and accordingly no further deduction was made for scarcity.

This leaves a net market rent for the subject property of £350 per calendar month which equates to around £81 per week.

The Committee considered the effect of the repairs that had been undertaken. It seemed to us that at least part of these works related to the adjoining cottages and were therefore not for the sole benefit of the subject premises. For this registration to have been exempt from the Maximum Fair Rent Order, the Committee would have to find that the effect of the repairs and improvements raised the previous fair rent by some 15% or more, i.e. by some £10.95 per week. The Committee found that the increase was below this figure and hence the registration is not exempt from the capping provisions of the Order.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £81 per week.

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 £75 per week (Details are provided on the back of the decision form).

Accordingly the sum of £75 per week will be registered as the fair rent with effect from 26th April 2005 being the date of the Committee's decision.

Chairman B J C MIRE

Dated 26 APRIL 2005