

**THE SOUTHERN AREA RENT ASSESSMENT COMMITTEE
AND LEASEHOLD VALUATION TRIBUNAL**

Case Number: CHI/00MW/MNR/2004/0166

B E T W E E N :

Miss A D TWORT

Applicant/Tenant

- and -

R L DAVEY

Respondent/Landlord

PREMISES: **FLAT 3, NORWOOD PLACE, TERMINUS ROAD, COWES, ISLE OF WIGHT**

COMMITTEE MEMBERS: **Mr D Agnew LLB, LLM (Chairman)**
 Mr P D Turner-Powell FRICS
 Mrs C Newman JP

REASONS FOR DECISION

1. Introduction

- 1.1 On the 10th November 2004 the Tenant applied to the Rent Assessment Committee for a determination as to the appropriate rent for Flat 3 Norwood Place, Terminus Road, Cowes, Isle of Wight ("the Premises").
- 1.2 The Landlord had served a notice dated 15th October 2004 proposing a new rent of £600 per month in place of the existing rent of £282 per month with effect from 1st December 2004.
- 1.3 The tenancy had originally been granted on 19th January 1976 to the Tenant's mother, Mrs A G Twort. Regrettably, she died in July 2004 and the current tenant, her daughter, succeeded to the tenancy.
- 1.4 During Mrs Twort's lifetime a fair rent had been registered under the Rent act 1977 and was due to be reviewed in July 2004.

2. Validity of the Landlord's Notice

- 2.1 During the course of the hearing on 11th January 2005 the Committee became concerned as to the validity of the Landlord's notice of increase of rent. The Committee's bundle contained a copy of Mrs Twort's tenancy agreement which was expressed to be "for the term of one year from the 12th January 1976 at the yearly rent of £480 payable without any deduction by twelve equal monthly payments of £40 on the 12th day of each and every month". This suggested that the start of a new period of the tenancy was the 12th of the month, not the first of the month as specified in the notice. Section 13(2) of the Housing Act 1985 provides that the new rent is to take effect at the beginning of a new period of the tenancy.
- 2.2 The Tenant's evidence was that she paid the rent by standing order on the first day of each month "to ensure that it is paid in time". She confirmed that her mother had also paid the rent at the beginning of the month.
- 2.3 As no one was at the hearing on behalf of the Landlord it was decided to adjourn the hearing after having heard the Tenant's representations as to an appropriate rent for the Premises to allow the Landlord an opportunity of explaining to the Committee why he considered the 1st December 2004 was the correct date for the increase in rent to take effect. The Landlord's agent was invited to make written representations, a copy of which would then be sent to the Tenant's representative for her comments. If it were then agreed that 1st December 2004 was the appropriate date the Committee would proceed to determine the rent on the evidence it heard on 11th January 2005. If the correct date for the increase to take effect was still in dispute the Committee would then adjudicate upon that matter.

3. The Premises

- 3.1 The Committee inspected the Premises prior to the hearing on the 11th January 2005.
- 3.2 The Premises comprise a two-bedroomed flat on the second floor of a large Victorian house which has been converted into four flats. It is situated on an elevated position near to the centre of Cowes. From the front pavement the neatly kept front garden is reached by a short flight of steep steps. The front garden wall leans at an angle from the perpendicular. The front door to the building has no security whatsoever: an intruder could simply walk straight in to the communal hallway and indeed the Tenant complained that youngsters would sometimes do just that. Flat 3 was approached up two flights of steep wooden stairs making access to the flat by an elderly or disabled person extremely difficult. There was some exposed electrical wiring on the stairs.

- 3.3 Inside, Flat 3 comprised one living room, two bedrooms, a bathroom and kitchen. The Landlord had recently installed UPVC double glazing throughout the flat. There was only one calor gas heater providing heating for the whole flat. Hot water was provided by means of an immersion heater. The original white stone sink in the kitchen had been replaced by a stainless steel sink unit and cupboards had been installed during the Tenant's mother's tenure. There was some damp on the front bedroom wall where there used to be a fireplace. There was no electric light in the inner hallway. The Landlord had installed the bath, basin and toilet in the bathroom. The rear bedroom window was seriously overlooked from the windows in the office building behind. There was a shortage of storage accommodation in the flat. The wiring had not been updated in the flat since the tenancy commenced.

4. The Law

- 4.1 In accordance with the terms of section 14 Housing Act 1988 the Committee proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
- 4.2 In so doing the Committee, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in Section 14(2) of that Act.

5. The Hearing

- 5.1 Ms Deborah Holder of The Law Centre, Isle of Wight, appeared on behalf of the Tenant, Miss Twort, who was also present at the hearing with her aunt. The Landlord did not appear and was not represented, nor did he make any representations.
- 5.2 The Tenant's representative emphasised the difficulty of access to the Premises and the lack of proper heating. She produced comparables in respect of which all the properties for which rent of more than £400 per month was sought were centrally heated, some had parking facilities and some had garden space the tenant could call his own. She referred to the damp patch in the bedroom and the lack of fire escape provision. The electrics were outdated and the Tenant and her mother had always carried out the Landlord's Section 11 Housing Act 1985 responsibilities, save for the double glazing installed last year. She thought that, having seen the property that day, that £400 per month would be the maximum that the Landlord could reasonably expect to obtain for the Premises. Miss Twort said that she worked for someone who rents a three-bedrooms house for £450 per month and another colleague pays £80 per week for a property slightly bigger than her where there are no stairs to contend with.

- 5.3 On the question of hardship, the Tenant said she earned £100 per week but would be retiring in 20 weeks' time. She would have to use her savings to pay for the increase currently demanded.

6. The Determination

- 6.1 The Tenant's representative, by letter of 2nd February 2005, did not seek to challenge the Landlord's contention set out in a letter from Messrs Scott Bailey, the Landlord's solicitors, of 20th January 2005 that there had been an agreed variation of the tenancy between the Landlord and Mrs Twort so that the rent fell due on the first of each month. The Committee was therefore satisfied that the Landlord's notice was valid and the Committee's determination of the new rent could continue.
- 6.2 The Committee, in coming to its decision, had regard to the evidence supplied by the Tenant and the members' own general knowledge of market rent levels of the Isle of Wight. It concluded that an open market rent for the Premises if let in the condition expected of a modern Assured tenancy would be £121 per week.
- 6.3 These premises were not, however, in that condition and therefore the following deductions would need to be made to adjust the above figure. Those deductions are:-

	<u>£ per week</u>
Lack of central heating	8.00
Basic kitchen and bathroom	6.00
No carpets/curtains/white goods	6.00
Internal decorating liability	5.00
Lack of car parking	2.00
Security/access/layout/electrics	10.00

	£37.00
	=====


- 6.4 When deducted from an open market rent of £121 per week the above adjustments leave a rent payable of £84 per week or £364 per month.
- 6.5 The Committee decided that it would cause hardship to the Tenant to backdate the coming into effect of the rent increase and therefore the aforesaid new rent will take effect from the date of the hearing, namely 11th January 2005.

7. The Decision

7.1 As from 11th January 2005 the rent for the Premises will be £364 per month.

Dated this 10th day of February 2005

Signed:


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D Agnew
Chairman