

Eastern Rent Assessment Panel

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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 (with comments by FJ)

PROPERTY: 83 Monkswood Avenue, Waltham Abbey, Essex EN9 1LJ
Ref. No. CAM/22UH/F77/2003/113

Date of Decision: 16 October 2003

Landlord: St Ermins Property Co Ltd (agents B Bailey & Co)
Tenant: Mr D E Spooner

Rent at date of Application:	£88.50 per week (RO 10.9.00 wef 16.10.02)
Rent proposed by Applicant (6.6.03):	£132.80 per week
Rent determined by Rent Officer:	£95.00 per week (RO 16.7.03 wef 16.7.03)
Rent determined by Committee:	£95.00 per week

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: Three-bedroom semi-detached house
Location: Fronts onto small private driveway next to primary school in quiet residential area close to town centre
Rent Officer's survey: Not supplied
Inspection:
Former MoD brick and tile house dating from the 1950's. Solidly built with good-sized rooms. Exterior generally in fair condition, though there is some minor disrepair. New UPVC windows and new external doors. Kitchen has original sink unit and cupboards plus additional units fitted by tenant. Outside kitchen is enclosed porch with utility area and WC. This was formerly an external porch area but has been enclosed by the tenant. Living room has new gas fire with back boiler, replacing a previous fire fitted by the tenant many years ago when the landlord's old Parkray stove was removed. Hardwood front door and patio doors and laminated flooring (in kitchen and living room) also fitted by tenant.

Upstairs are two reasonable double bedrooms and a fair-sized single bedroom. Some ceilings show minor cracking, inevitable with a house of this age. The bathroom has the original fittings plus shower fitting and tiles by the tenant. The hot water tank (with immersion heater) is in a large airing cupboard. There is a modest garden, on side of which faces the playground of the local primary school. The tenant did not find this a drawback.

Internal decorations (by the tenant) were good. Overall, this is a substantial and comfortable family home, albeit the fittings (apart from those added by the tenant) are dated.

2. THE TENANCY

- 2.1 Tenancy commenced: Prior to 1983 according to comments made by the tenant
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 16.10.02: £88.50 per week
Rent Officer inspection: 27.6.03
Objection dated 6.8.03 by: Landlord
Hearing: No

4. THE LANDLORD'S CASE

- 4.1 See written representations with papers. Landlord has fitted new windows and doors at a cost of £5,592.29 inc VAT. Accordingly asks for new rent to be registered within the usual two-year minimum period on the ground that, by reason of these improvements carried out since the last registration, there has been such a change in the condition of the property as to make the registered rent no longer a fair rent.

5. THE TENANTS' CASE

- 5.1 The tenant makes no representations.

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 that the landlord has improved the property by fitting new UPVC double-glazed windows and external doors to the property at a cost of £5,592.29.
- 7.1.2 The landlord's agents make what appears to be their standard representations as regards the principles to be applied in assessing a fair rent. The Committee is aware of the cases cited and their legal effect but does not agree with a number of the general points made. In particular, the Committee does not accept that landlords expect a rental return of 10% on capital value. The scarcity argument based on the concept of a "fair" return to the landlord (said to be 10%) is not in any event persuasive because it is unsupported by evidence of actual rental and capital values. No such evidence was before the Committee.
- 7.1.3 The Committee's own knowledge and experience suggests as a starting point an open market rent of £175.00 for the property if let on assured shorthold terms, fully modernised and in good condition throughout, with central heating, carpets, curtains and white goods. The Committee deducts 7.5% for lack of carpets curtains and white goods; 5% for dated bathroom and 2.5% for disrepair.
- 7.1.4 The Committee accepts that the new windows and doors have a substantial effect on rental value and that, by reason of the landlord's works of improvement, the registered rent is no longer a fair rent for the property. Thus the landlord is entitled to apply for the registration of a new fair rent. Nothing else appears to have changed since the last registration.

7.2 Tenant's improvements (to be disregarded) attract a discount of 12.5%. Thus total deductions are 27.5% and the adjusted open market rent is £126.88 per week.

7.3 The locality: South Essex and the Lee Valley area of the North London fringe.

7.4 Scarcity: Very substantial – 25%. Rounding slightly, this leads to a figure of £95.00 per week.

7.5 Capping applies. It can be seen that the Committee does not consider that the landlord's improvements increase the rent by as much as 15% of the previous registered rent.
Exempt: No

7.6 The Committee takes the view that the starting figure for RPI is the figure for September 2001 (when the rent was previously entered on the Register) and not October 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 maximum fair rent is £95.00 per week. The figure would be the same if the starting point were the October 2001 figure for RPI. The capped fair rent is thus £95.00 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.