

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

210a Ripple Road
Barking
Essex
IG11 7DJ

The Committee members were

Mrs E Samupfonda LLB (Hons)
Mr D N Huckle FRICS
Mrs L Walter MA (Hons)

1. Background

On 16 October 2002 the landlord applied to the rent officer for registration of a fair rent of £80.00 per week for the above property.

The rent payable at the time of the application was £33.50 per week.

The rent was previously registered on 21.12.99 with effect from the same date at £33.50 per week following a determination by the rent officer.

On 18 November 2002 the rent officer registered a fair rent of £37.50 per week with effect from that date.

By a letter dated 18 December 2002 the landlord 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 21 February 2002 and found it to be in poor condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

3. Evidence

The Committee received written representations from the landlord and these were copied to the tenant. No written representations were received from the tenant.

A hearing was held on 21 February 2003 at 10 Alfred Place, London WC1E 7LR at which oral representations were made by the landlord and tenant.

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 parties and the Committee's own general knowledge of market rent levels in the area of Barking. Having done so it concluded that such a likely market rent would be £125 per week.

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 of £125 per week to allow for the lack of self-containment and 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). The Committee considered that this required a deduction of £60.00 per week.

This leaves an adjusted market rent for the subject property of £65.00 per week.

The Committee found that there was substantial scarcity in the locality of London Borough of Barking, and adjoining parts of Newham and Havering and therefore made a deduction of about 25% from the market rent to reflect this element.

6. Decision

The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £50.00 per week.

However, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be confirmed in the present case is the lower sum of £37.50 per week (Details are provided on the back of the decision form).

Accordingly the sum of £37.50 per week will be confirmed as the fair rent with effect from 21 February 2003 being the date of the Committee's decision.

Chairman: E Samupfonda

Dated: 21 February 2003

This document contains a summary of the reasons for the Rent Assessment Committee's decision. If either party requires extended reasons to be given, they will be provided following a written request to the committee clerk at the Panel Office which must be made within 21 days from the date of issue of this document.

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