

Southern Rent Assessment Panel

File Ref No.

CHI/43UB/F77/2004/0115

Rent Assessment Committee: Reasons for decision.**Rent Act 1977****Address of Premises**

5 Back Green
Hersham
Walton-on-Thames
KT12 4HY

The Committee members were

Mr. J H S Preston JP FRICS
Mr. R A Potter FRICS
Mr. D Wills ACIB

1. Background

On 28 February 2003 the landlord, St. Ermins Property Co Ltd by their agents Hamways, applied to the Rent Officer for registration of a fair rent of £1,450. per month for the above property.

The rent payable at the time of the application was £484 per month.

The rent was previously registered on 16 May 2001, with effect from that date, at £484 per month following a determination by the Rent Assessment Committee. The uncapped fair rent was stated to be £585 per month.

On 16 June 2003 the Rent Officer registered a fair rent of £528 per month with effect from 16 June 2003 and stated that the uncapped rent was £585 per month.

By a letter dated 3 July 2003 the landlord objected to the rent determined by the Rent Officer. However it appears that this letter could not be traced by the Rent Officer and no action was taken to refer the matter to the Rent Assessment Committee until a further letter was written by Hamways on 12 June 2004. In the circumstances the Committee decided to accept the landlord's objection, which technically was out of time..

2. Inspection

The Committee inspected the property on 29 July 2004, in the presence of the tenant's wife, Mrs. D Fisher and their daughter.

The property is a semi-detached house built in the early part of the 20th century. The accommodation comprises: -

Ground Floor: Sitting room; Dining room; Kitchen; Bathroom with bath basin and WC.

First Floor: Three Bedrooms.

There is no form of central heating. All main services are connected.

The house is in fair condition, due in the main to work carried out by the tenant.

The following specific defects were noted: -

- Poor external decoration and some rotted timbers
- Badly rusted soil and vent pipe and rainwater down pipes

The tenant has carried out the following improvements and other works: -

- Installation of kitchen units
- Installation of wall-mounted gas-fired water heater in the kitchen
- Two night storage heaters
- Two gas fires
- Loft insulation
- Partition to bedroom to form passage to rear bedroom
- Erection of fencing to garden and formed parking bay

The front garden is concreted. There is a rear garden about 15 metres deep.

The property is situated overlooking a Green and is close to the centre of Hersham.

3. Evidence

The Committee received written representations from the landlord in Hamways letter dated 28 July 2004. They included evidence of comparables in Redhill, Bramley, Woking and Epsom.

The tenant made written representations through their daughter. She drew attention to the considerable amount of work carried out in the past by the tenant, including external decorations and repairs, which were the liability of the landlord. Due to his age and health he was no longer able to continue to do this. In view of the amount of work done by the tenant, the increase in rent was not thought to be justified.

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

4. The Consideration and Decision

When determining the 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 emphasized (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.

The Committee was of the opinion that none of the landlord's comparable rental evidence was relevant to the subject property by virtue of the locations of the properties cited. 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 any evidence supplied by the parties and to the Committee's own general knowledge of market rent levels in the area of Weybridge / Walton-on-Thames. Having done so it concluded that the market rent would be £950 per month.

This rent would be for a property in good letting condition with central heating and modern kitchen and bathroom and a full electrical installation. In view of their findings as to the deficiencies in the property, the Committee considered that it was appropriate to make a deduction of £320 per month from market rent for the following: -


1. Lack of white goods and carpets
2. Lack of central heating
3. Lack of modern kitchen and bathroom
4. Tenant's repair liabilities under this tenancy
5. Disrepair
6. Tenant's improvements

The Committee did not consider that there was any substantial scarcity element and accordingly no deduction was made for scarcity.

The fair rent determined by the Committee is accordingly £630 per month.

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 £542.50 per month. (Details are provided on the back of the decision form).

Accordingly the sum of £542.50 per month will be registered as the fair rent with effect from 29 July 2004 being the date of the Committee's decision.

Signed  J H S Preston (Chairman)

Dated 29 July 2004