

Rent Assessment Committee: Full reasons for decision.
Rent Act 1977

Address of Premises

Flat 3 Forest Parade
Forest Road
Lydney
Gloucestershire GL15 5LA

The Committee members were

Mr G C M Young MA LLM
Mr I R Perry BSc (Est Man) FRICS

1. Background

On 1 October 2003 the landlord applied to the rent officer for registration of a fair rent of £1020.00 per quarter for the above property.

The rent payable at the time of the application was £720 per quarter.

The rent was previously registered on 4 February 2000, with effect from 17 March 2000 at £2880 per annum following a determination by the rent officer.

On 8 December 2003 the rent officer registered a fair rent of £821.00 per quarter with effect from that date.

By a letter dated 16 January 2004 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 1 April 2004 and found it to be in fair condition as described more particularly in the Rent Officer's survey sheet that had been copied to the parties.

The following tenant's improvements had been made to the property.

Complete fitting out of kitchen.

Installed fire surround and timber cladding in living room.

Night storage heaters to living room and hall.

Replaced front door and installed some additional electrical fittings
It was noted that all carpets and curtains were provided by tenant.

3. Evidence

The Committee received written representations from the landlord and tenant (extending to page 32 of bundle) and these were copied to the parties.

A hearing was held 1 April 2004 in the subject property at which oral representations were made by the tenant. The landlord was not present or represented.

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 Forest of Dean. Having done so it concluded that such a likely market rent would be £400.00 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 of £400.00 per calendar month 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). The Committee considered that this required a deduction of £100.00 per calendar month for lack of central heating, general poor maintenance by landlord, installation of kitchen and provision of carpets and curtains by tenant.

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

This leaves a net market rent for the subject property of £300 per calendar month.

6. Decision

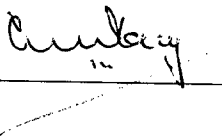
The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £300.00 per calendar month.

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 £3299.50 per annum (details are provided on the back of the decision form).

The Committee under the terms of the legislation could not and did not take into account any proposed works to be undertaken by the landlord nor did it take into account the exclusion claimed by the tenant from negotiations to establish the intermediate lease now held by the present landlord.

Accordingly the sum of £3299.50 per annum will be registered as the fair rent with effect from 1 April 2004 being the date of the Committee's decision.

Chairman



Dated 1 April 2004

~~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 request to the committee clerk at the Panel Office which must be made within 21 days from the date of issue of this document.~~