

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

Address of Premises

Swan Down Cottage
Sladesbridge
Wadebridge
Cornwall
PL27 6JB

The Committee members were

R Batho MA BSc LLB FRICS FCI Arb
E R Distin FRICS
Dr C Gronow

1. Background

On 14th July 2005 the landlord applied to the rent officer for registration of a fair rent of £400.00 per month for the above property. The rent was previously registered at £53.00 per week following a determination by the rent officer.

On 1st September 2005 the rent officer registered a fair rent of £59.00 per week with effect from that date. By a letter dated 9th September 2005 the landlord asked for the matter to be referred to a rent assessment committee.

2. Inspection

The Committee inspected the property on 17th November 2005 and found it to be in good condition, as described more particularly in the rent officer's survey sheet of November 1996 and subsequently, which had been copied to the parties and following external works carried out by the Environment Agency during 2004/2005.

The following tenant's improvements had been made to the property: Installation of two night storage heaters; various socket outlets added; construction of a new fireplace in the living room; the provision of kitchen cupboards and worktops, together with wall tiling; refitting of the bathroom; the construction of a new fuel store; paving of the rear garden; and other more minor matters.

3. Evidence

The Committee had the benefit of written representations received from the landlord and the tenant and copied to the other parties. A hearing was held on 17th November 2005 at which oral representations were made on behalf of the landlord and by the tenant.

4. The Law

When determining a fair rent the Committee, in accordance with the Rent Act 1977, s.70, had regard to all the circumstances including the age, location and state of repair of the property and disregarded the effect of any relevant tenant's improvements 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 of the rent, if any, that is attributable to there being a shortage of similar properties in the locality available for letting on similar terms) and (b) that assured tenancy (market) rents are usually appropriate market rent comparables.

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 North Cornwall. Having done so it concluded that such a likely market rent would be £525.00 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 necessary to adjust that hypothetical rent of £525.00 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 £13.00 per month.

Furthermore, to allow for the tenant's improvements, as listed above, it was necessary to make a further deduction of £33.00 per month.

A further adjustment was made to allow for the differences in repairing obligations between the comparable properties and the subject property, and the Committee arrived at a fair rent of £454.00 per calendar month or £105.00 per week for the subject property. The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity.

5. Decision

The fair rent determined by the Committee is accordingly £105.00 per week. That rent will be registered with effect from 17th November 2005 being the date of the Committee's decision.

However, that rent is capped by the Rent Acts (Maximum Fair Rent) Order 1999: the Committee considered the contention that works done by the Environment Agency would take the property outside the terms of this Order but concluded that, as a matter of law, the order had to be strictly interpreted so that only works done the landlord qualified for the exemption, but that as a matter of fact the increase attributable to the works in question would have been less than 15% in any event. The amount to be registered as the fair rent is accordingly limited to £59.50 per week. Details are provided on the back of the decision form.

Signed



Dated

18th November 2005

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 which must be made within 21 days from the date of issue of this document.