

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

Address of Premises

TOP FLOOR FLAT
12 BRUNSWICK SQUARE
HOVE
EAST SUSSEX BN3 1EH

The Committee members were

MRS F J SILVERMAN LLM (Chairman)
MR B H R SIMMS FRICS MCIArb
MS J MORRIS

1. Background

On 24th August 2004 the landlord applied to the rent officer for registration of a fair rent of £833 per calendar month for the above property.

The rent payable at the time of the application was £353.83 (£4246 per annum) per calendar month

The rent was previously registered on 5th April 2001 with effect from the same date following a determination by the rent officer.

On 8th October 2004 the rent officer registered a fair rent of £401 per calendar month including £.....in respect of services/(variable) with effect from that date.

By a letter dated 22nd October 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 30th November 2004 and found it to be in ~~good/fair/poor~~ condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

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

The Committee was unable to gain access at the appointed time in order to inspect the property internally and therefore made an external inspection only.

The registered rent includes a sum for the services as listed on the rent register.

3. Evidence

The Committee received written representations from the landlord and this was copied to the parties. No written representation was received from the tenant party.

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

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 landlord and the Committee's own general knowledge of market rent levels in the area of Brighton and Hove. Having done so it concluded that such a likely market rent would be £ 700 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 £ 700 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 £ 190 per calendar month.

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

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 £ 510 per calendar month, ~~to which the sum of £~~ in respect of services ~~should be added.~~

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £ 510 per calendar month ~~inclusive of £~~ ~~per calendar month in respect of services.~~

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 £ 402.50 per calendar month inclusive of services (Details are provided on the back of the decision form).

The section 70 fair rent determined by the Committee is below/at the same level as the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect. Details are provided on the back of the decision form.

The fair rent to be registered/confirmed is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because there was not an existing registered fair rent at the time of the application.

The fair rent to be registered/confirmed is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because by virtue of landlord's repairs and/or improvements since the previous registration the rent determined/confirmed by the Committee exceeds by at least 15% the previous registered rent.

Accordingly the sum of £ 402.50 per calendar month ^{Set} inclusive of services ~~of £~~ ~~per calendar month~~ will be registered/confirmed as the fair rent with effect from 30 November 2004 being the date of the Committee's decision.

~~The registered rent is to be entered/confirmed as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)).~~

Chairman signed _____

Dated _____

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.