

**Rent Assessment Committee: Reasons for decision.
Housing Act 1988 Section 13(4)****Address of Premises**

23 Mill Road
Totton
Southampton
SO40 3AE

The Committee members were

Mr M R Horton FRICS (Chairman)
Mr P D Turner-Powell FRICS
Mr R D Yeomans

1. Background

On 28th June 2004 **Mr T P Judd**, the tenant of the above property, referred a notice proposing a new rent under an assured periodic tenancy to a Rent Assessment Committee under the provisions of the Housing Act 1988 section 13(4) (The Act). The current rent paid for the property is £69.50 per week, registered by the rent officer in 2001. The rent proposed in the notice is £137.31 per week to take effect from 27th July 2004.

The notice was given on 21 June 2004 by Messrs Dutton Gregory, Solicitors, on behalf of the landlord **Mr Andrew Daniels**.

Mr Judd succeeded to the tenancy on the death of his aunt, who died earlier this year. This is the second succession to the tenancy and while Mr Judd's aunt was a 1977 Rent Act protected tenant Mr Judd has become an assured periodic tenant.

Only the landlord requested a hearing but both parties submitted written representations.

2. The Statutory Provisions

It may be helpful if we describe the legal background to the function we have to perform where a valid application has been made to a rent assessment committee under section 13(4) of the Act.

The committee have to determine the rent payable in accordance with the provisions set out in section 14 of the Act and while we do not set out the full extent of this section we set out in full subsection (1)(a) to (c).

Housing Act 1988 section 14 (1)

Determination of rent by a rent assessment committee

- (1) *Where, under section (4)(a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section the*

committee shall determine the rent at which, subject to subsections (2) and (4) below, the committee consider the dwelling-house concerned might reasonably be expected to let in the open market by a willing landlord under an assured tenancy –

- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates*
- (b) which begins at the beginning of the new period specified in the notice;*
- (c) the terms of which (other than those relating to the amount of rent) are the same as those of the tenancy to which the notice relates; and*
- (d)*

The committee are only allowed to discount the rent for improvements which have been carried out by the tenant **since** he succeeded to the tenancy and they have to disregard any effect on the rent attributable to the granting of a tenancy to a sitting tenant and any reduction in the value due to the failure by the tenant to comply with the terms of the tenancy.

It should be appreciated the Housing Act 1988 contains other provisions which the Committee have to take into account, e.g. the validity of the application, while legal precedents, where appropriate, also have to be considered but, in this case, the above appeared to the Committee to be the main area affecting their determination.

3. Inspection

A duly appointed Committee inspected the property, in the presence of the tenant and the landlord, on 26 August 2004.

The property comprises a centre of terrace two storey house with single storey addition comprising inside store cupboard and external toilet to the rear.

Mill Road is a cul-de-sac fronted along most of its length by similar style terraced houses although close to the subject property on the other side of the road are industrial buildings.

While Mill Road is conveniently located it is, nevertheless, generally surrounded by commercial activities and is in close proximity to the main railway line. It is also a very narrow road with difficult parking conditions.

Estimated to have been constructed circa 1930 the building is of traditional construction with rendered elevations, old metal framed windows and an interlocking clay tiled roof.

The Committee recorded the house as having reached the stage where it was in need of considerable works of renovation to bring it up to a the standard which would be required by most tenants in today's rental market where there is now a good supply and choice of accommodation available.

In particular they noted the poor state of the external decorations, woodwork and windows, the lack of central heating, the very basic kitchen and somewhat dated bathroom.

Hot water is provided by a Fortic type tank and electric immersion heater.

Accommodation comprises entrance, 2 living rooms and kitchen on the ground floor & landing, 3 bedrooms and bathroom/wc on the first floor. There is an external wc to the rear and access to a pedestrian footpath off the rear garden.

There is no provision for off road parking and the house is let unfurnished.

There was no evidence that any improvements had been carried out by the tenant since he succeeded to the tenancy earlier this year.

4. Written representations

Representation by Mr Judd (the Tenant)

The main points of Mr Judd's representations related to:

1. His concern at the almost doubling of the rent
2. The lack of a garage.
3. The proposed rent is close to the top end of market values but fails to meet the services and facilities of such property.
4. External décor is poor , rot to timbers, no double glazing, no central heating and high electricity bills as portable electric heaters have to be used.
5. There is no double glazing, no central heating and the flue to the front living room fireplace is blocked and the gas fire can not be used.
6. The internal bathroom, while satisfactory, is not tiled and the flush to the wc is noisy.
7. The kitchen is old and in need of refitting and there is no plumbing for a washing machine and no fitted units.
8. It must be recognised that the current rent may be below market value, but only for a property with the normal expected facilities for the 21st century.

In a later letter, in response to a representation from Messrs Dutton Gregory (see below), Mr Judd states that as Mr Daniels owns nos., 16 & 17 they do not seem relevant.

Representations by Messrs Dutton Gregory, on behalf of Mr Daniels (the Landlord)

The following were the principle representations made by Messrs Dutton Gregory in response to the tenant's representations, set out above.

1. Unfortunately while the property has a garden it does not have a garage and only street parking is available.
2. Similar properties can be found at 16 and 17 Mill Road which are currently let at £595.00 and £610.00 pcm respectively. Both properties have identical floor plans to 23, being two storey mid terrace houses built about 1930.

The rent being sought for no.23 is at the lower end of the range (a monthly rental of £595.00).

3. A number of repairs had been carried out to the property and no complaints of any description have been received from Mr Judd.
4. The windows at 23 are identical to those at 16 & 17. The blocked flue had not been brought to the landlords attention and will be attended to.

5. The Hearing

The hearing was attended by the landlord, Mr Daniels. The tenant did not appear and was not represented.

The Chairman explained to Mr Daniels the procedures for the hearing and the legal principles on which the committee would determine the rent.

In response to a question from the committee Mr Daniels confirmed it had been agreed Mr Judd was the second tenant, by succession, and was entitled to an assured periodic tenancy.

Mr Daniels explained the circumstances surrounding the lettings of 16 & 17 Mill Road, referred to in the earlier representation, and in particular confirmed they were identical properties and, apart from there being central heating to the ground floor only their condition was not significantly different to that of the subject property.

16 Mill road had initially been let for a term of 6 months from 16 August 2003 at a rent of £595.00 pcm while 17 Mill Road was let for 12 months from 1 April 2004 at a rent of £610.00 pcm. The tenant had paid a full years rent in advance.

The lower rent was to avoid a void and the fact that the tenant had paid a full years rent in advance.

Mr Daniels explained that it was his intention to modernise and improve all these properties, when they become vacant, and in response to questions from the

committee he confirmed that improvements would extend to the replacement of the existing windows, full central heating and new fitted kitchens and bathrooms.

Limited furnishings would probably include a cooker, fitted carpets and curtains.

On this basis he considered the properties could be let on assured shorthold tenancies at between £650.00 & £670.00 pcm.

Mr Daniels also referred to 10 Mill Road in respect of which he understood a letting had been arranged at a rent of £675.00 pcm but the owners had not proceeded with the letting and were now selling the house.

He also referred to the letting of a two bedroom house in Downs Park Road at a rental of £625.00 pcm, this property having a rear access, but he had very limited information regarding this property.

6. The Consideration

The committee found the two parties written and verbal representations most useful. However Mr Judd provided no evidence of rents obtained for comparable properties and gave no indication of a figure which he considered appropriate.

There did not appear to be any significant points of difference between the parties as to the condition of the house and both agree it has reached the stage when modernisation and a degree of repair is necessary.

Unfortunately, for Mr Judd, any improvements carried out by previous tenants, including his aunt, now inure for the benefit of the landlord. In any event they would not have had any great impact on the rent.

However, the committee decided that items such as carpets and curtains were now the property of Mr Judd and did not fall to be considered to the benefit of the landlord.

Mr Daniels had projected a rental value of £650.00 to £670.00 pcm for a fully modernised properties of this type and the committee from their own experience and knowledge also considered this to be about the rent that at which a landlord could reasonably be expected to let.

The committee then considered how these figures should be adjusted to reflect the present state of the subject house and the differences in the terms of the tenancies.

It is the committee's experience that due to the short term nature of assured shorthold tenancies, usually between 6 and 12 months, the landlord invariably supplies carpets and curtains and probably a cooker.

The landlord, while not necessarily covenanting to carry out internal decorations, invariably accepts this as one of the costs of the letting.

In this case Mr Judd has to provide carpets, curtains, cooker etc. and is responsible for internal decorations.

Adjustments have to be made to reflect these differences.

The committee arrived at the following valuation assuming a monthly rental of £660.00 for a fully modernised house.

Rent per calendar month £660.00, or	£152.30 per week
<u>Less adjustments</u>	

No central heating	10.00 pw	
No basic furnishings	8.00 pw	
Poor windows	5.00 pw	
Tenants responsibility for internal decorations	5.00 pw	
Basic kitchen and bathrooms and other obsolescence	<u>8.00 pw</u>	<u>36.00 per week</u>

Adjusted rent	<u>£114.30 per week</u>
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The committee then examined the lettings arranged by Mr Daniels of 16 & 17 Mill Road which they considered were excellent comparables to use as a base for valuation purposes reflecting, as they did, properties in more similar condition.

They did not consider the point made by Mr Judd that as they also were owned by Mr Daniels they were not relevant as both had been let on the open market by agents and similar rents had been obtained.

The committee assumed the open market rent for those properties as £600.00 pcm (£138.46 pw) and after allowing for the differences between assured shorthold lettings and an assured periodic tenancy, as set out above, arrived at the following valuation.

Rent per week	£138.46
<u>Less adjustments</u>	
Part central heating	5.00 pw
No basic furnishings	8.00 pw
Tenants responsibility for internal decorations	<u>5.00 pw</u> <u>18.00 per week</u>

Adjusted rent	<u>£120.46 per week</u>
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Having considered these two valuations the committee decided that from their knowledge and experience of the market and the fact that the second valuation was based on actual rents, rather than an as yet unachieved figure, the rent at which a landlord might reasonably be expected to let 23 Mill Road, Totton in the open market is £120.00 per week

6. Decision

The Committee determine the rent of 23 Mill Road, Totton, Southampton at £120.00 per week.

This rent will take effect from 27 July 2004 being the date in the landlord's notice.

Signed _____
(signed)

Michael R Horton FRICS (Chairman)

Dated _____
1 September 2004