

**Rent Assessment Committee: Summary reasons for decision.**

**Rent Act 1977**

**Address of Premises**

1 Central Suffolk House  
Suffolk Square  
Cheltenham  
Gloucestershire  
GL50 2HP

**The Committee members were**

Mr. J. S. McAllister FRICS  
(Chartered Valuation Surveyor)  
Mr. S. Hodges FRICS  
(Chartered Valuation Surveyor)  
Mr. D. Wills

**1. Background**

On the 16th March 2006, the Northumberland and Durham Property Trust Ltd, the landlord applied to the Rent Officer for a re-registration of a fair rent of £1,935.77 per quarter (£645.26 p.c.m.) for the above property.

The rent payable at the time of the application was £1,372.50 per quarter (£457.50 p.c.m.).

The rent was previously registered on the 12th December 2005, with effect from the 24th February 2006 at £457.50 p.c.m., with £73.38 p.c.m. attributable to services, following a determination by the Rent Officer.

On the 17th May 2006 the Rent Officer re-registered a fair rent of £482.50 p.c.m. (with £73.38 p.c.m. attributable to services) with effect from the 17th May 2006.

By a letter dated the 6th June 2006 the landlord's agents, Grainger Residential Management Ltd 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 the 15th August 2006 in the presence of the tenant, Miss R. P. Thornton and it appeared to be in good condition for its age and character (as described more particularly in the Rent Officer's survey sheet which had been copied to the Parties).

Briefly the property was a ground floor flat in a traditionally built block of flats of brick walls under a flat roof. The block was probably built around 1938 and had an entrance hall, sitting/dining room, kitchen, three bedrooms, and bathroom. Outside there was one car space available in a general parking area for use with the flat and a very small area of yard to the front and rear of the flat. Mains water, electricity and drainage were connected but there was no central heating to the flat. Hot water was by immersion heater.

The following tenant's improvements had been made, refitted the kitchen and the provision of several night storage heaters.

The landlords also informed the Committee that since the last registration of fair rent in December 2005, that they had spent £3460.38 on rewiring to the property plus one night storage heater.

The registered rent includes the sum referred to above for the services as listed on a schedule received from the landlord by the Committee after the Hearing.

### **3. Evidence**

The Committee received written representations from both the landlord's agents and tenant and these were copied to the Parties.

A Hearing was held on the 15th August 2006 in Cheltenham at which oral representations were made on behalf of the landlord, by Mr. M. Parmar. The tenant was not present or represented.

### **4. The law**

When determining a fair rent the Committee, in accordance with the Rent Act 1977 Section 70, have regard to all the circumstances including the age, location and state of repair of the property. It also disregards 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 comparable. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

The Committee also has to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 where applicable. Most objections to and determinations of registered rents are now subject to the Order, which limits the amount of rent that can be charged by linking increases to the Retail Price Index. It is the duty of the Rent Assessment Committee to arrive at the fair rent under Section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules set out in the Order. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rent for the subject property.

Finally, under Section 70 the Committee must disregard the personal circumstances of the tenant and landlord in deciding the fair rent of the property.

## **5. Valuation**

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 Gloucestershire. Having done so it concluded that such a likely market rent would be £725 p.c.m. (i.e. on the basis of an assured shorthold tenancy).

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 £725 p.c.m. to allow for the difference between 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 total deduction of £120 p.c.m.

This total was calculated as follows:-

- Lack of central heating system - £40 p.c.m.
- Lack of carpets and curtains - £20 p.c.m.
- Lack of "white goods" - £15 p.c.m.
- Tenant's responsibility for internal decoration - £20 p.c.m.
- Tenant's improvements (kitchen cupboards) - £25 p.c.m.

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

This leaves a net market rent for the subject property of £605 p.c.m.

The Committee then carefully considered the landlord's contention that the fair rent here was not to be limited by the Rent Acts (Maximum Fair Rent) Order 1999 because by virtue of the landlords rewiring etc. since the previous registration the registered rent exceeds by at least 15% the previous registered rent. The landlords had contended that the expenditure of £3,460.38 had added at least £68.63 p.c.m. to the registered rent of £457.50 p.c.m. After careful consideration the Committee took the view that this expenditure did not increase the rental value by the 15% referred to above, so by virtue of the Rent Acts (Maximum Fair Rent) Order 1999, the maximum fair rent that can be registered in this case is the lower sum of £491 p.c.m. exclusive of Council Tax (details are provided on the back of the decision form).

The Committee also considered the question of services. From the information provided by the landlord after the Hearing, the £73.38 p.c.m. related to cleaning, lighting and gardening of common parts plus management fees and "minor" and "major repairs".

The Committee felt that the repairs were not fixed service charges as such and they calculated the correct amount of service charges to be £23.88 p.c.m.

## 6. Decision

The fair rent initially determined by the Committee, for the purposes of Section 70 was accordingly £605 per calendar month, exclusive of Council Tax ('uncapped rent'), and inclusive of £23.88 p.c.m. attributable to services.

However, as indicated above, because of the above mentioned Order, the maximum fair rent (i.e. the 'capped rent') is the sum of £491 per calendar month, exclusive of Council Tax and inclusive of £23.88 p.c.m. attributable to services.

Accordingly the sum of £491 per calendar month, exclusive of Council Tax will be registered as the fair rent with effect from the 30th August 2006, being the date of the Committee's decision.



Mr. J. S. McAllister, F.R.I.C.S.  
Chairman

Dated

.....30TH. AUGUST 2006.....

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*This decision 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.*