

**Eastern Rent Assessment Panel
Rent Assessment Committee**

File Ref No: CAM/22UE/F77/2006/0011

Rent Act 1977 ("the Act")

Address of Premises: 3 Manor Court, Manor Road, Benfleet,
Essex SS7 4HT

The Tenant: Mr Y F Chan

The Landlord: BPT Southern (No.2) Limited

Committee Members:	Mr John Hewitt	Chairman
	Mr Edward Pennington	FRICS
	Cllr Robert Eschle	JP

Date of Hearing: 1 March 2006

Date of Decision: 1 March 2006

DECISION

1. Background

Previous Rent Registered	:	£316.00	per month
Rent proposed by the landlord	:	£380.00	per month
Rent determined by the rent officer	:	£349.50	per month
Rent determined by the Committee	:	£350.00	per month

1.1 On 10 November 2005 the landlord of the Premises applied to the rent officer for the registration of a fair rent of £380 per month for the premises, pursuant to section 67 of the Act.

1.2 The rent was previously registered on 7 January 2004 (with effect from that date) was a rent of £316.00 per month.

- 1.3 On 5 December 2005 the rent officer registered a fair rent of £349.50 per month with effect from 7 January 2006.
- 1.4 By letter dated 21 December 2005 the tenant objected to the rent determined by the rent officer, and the matter was referred to the Rent Assessment Committee.

2. Inspection

- 2.1 The Committee inspected the premises on 1 March 2006 and found them to be in reasonably good but basic condition. The premises did not have central heating and the landlord had not provided any white goods, floor coverings or curtains. The premises were not set in a particularly attractive location.
- 2.2 The following tenant's improvements had been made to the premises:
None
- 2.3 The following services are provided for the tenant:
Lighting of common parts

3. Evidence

- 3.1 A hearing was held at The Oak Room, Hollywood Restaurant 140 Shipwrights Drive, Thundersley, Benfleet, Essex SS7 1RF at 14:00 on Wednesday 1 March 2006. The tenant attended and represented himself. The landlord had been notified of the hearing by letter but by notice dated 17 January 2006 it stated that it did not wish to attend the hearing or be represented at it or to make any written representations to the Committee.
- 3.2 Mr Chan told the committee that he could not afford the rent. He said in the market property prices went up and down but his rent always went up. He said that he had lived in the flat for 20 years and the landlord had not during that time carried out any repairs or maintenance.
- 3.3 Mr Chan also said that the area was not a good one. The flat was above a parade of shops and opposite a pub. Teenagers gather on the landing and broken glass is often found on the stairway. A nearby telephone kiosk is always being repaired.

4. The Law

- 4.1 When determining a fair rent the Committee, in accordance with section 70 of the Act, had regard to all of the circumstances including the age, location and state of repair of the premises. 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 premises.
- 4.2 In *Spath Holme Limited 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 premises discounted for "scarcity" (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar premises in the wider locality available for letting on similar terms - other than as to rent to that of the regulated tenancy in question, and
 - b) that for the purpose 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 premises.

5. Valuation

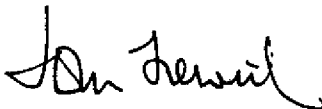
- 5.1 In the first instance the Committee determined what rent the landlord could reasonably be expected to achieve for the premises in the open market if the premises were let today in the condition that is considered usual for such an open market letting. It did this by having regard to the evidence submitted by the landlord and to the Committee's own general knowledge of market rent levels in the area of Benfleet. Having done so, it concluded that such a likely market rent would be £525 per month.
- 5.2 However, the premises are not in the condition considered usual for a modern market letting at a market rent. Therefore it was necessary to adjust the hypothetical rent of £525 per month to allow for the differences between the condition considered usual for such a letting and the condition of the actual premises as observed by the Committee, (but 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 per month.
- 5.3 The Committee determined that the market rent for the premises, so adjusted was £425 per month.
- 5.4 The Committee found that there was substantial scarcity in the locality of South East Essex and therefore made a further deduction of 15% from the market rent to reflect this element.

5.5 Calculations:

Open market rent	£525.00	pcm
Deduction for lack of modern amenities	<u>£100.00</u>	
Open market rent for the premises	£425.00	
Deduction for scarcity	<u>£ 63.75</u>	
Uncapped fair rent	£ 361.25	pcm

6. The Decision

- 6.1 The uncapped fair rent determined by the Committee, pursuant to section 70 of the Act, was accordingly £361.25 per month, inclusive of services.
- 6.2 The Committee considered the Rent Acts (Maximum Fair Rent) Order 1999, SI 1999 No. 6 ('the 1999 Order') and the question whether the fair rent was to be capped in accordance with its provisions. The Committee considered that the 1999 Order applies. Accordingly the maximum fair rent that can be registered in the present case is the lower sum of £350.00 per month inclusive of services. Details showing the capped fair rent are attached.
- 6.3 Accordingly, the sum of £350.00 per month, inclusive of services will be registered as the fair rent of the premises with effect from 1 March 2006 being the date of the Committee's decision.



John Hewitt

Chairman

Dated: 8 March 2006

Note:

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 28 days from the date on which this document is sent to the parties.