

**Rent Assessment Committee: Summary reasons for decision.
Rent Act 1977****Address of Premises**

40 SHAW HILL,
MELKSHAM,
WILTSHIRE,
SN12 8EY

The Committee members were

Mr Roger Sansbury
Mr Peter Harrison FRICS
Mr Colin Thompson

1. Background

On 4 March 2004 the landlord applied to the Rent Officer for registration of a fair rent of £1000 per calendar month for the above property.

The rent payable at the time of the application was £333.50 per calendar month.

The rent was previously registered on 21 May 2002 with effect from the same date at £333.50 per calendar month following a determination by a Rent Assessment Committee.

On 15 April 2004 the Rent Officer registered a fair rent of £365 per calendar month with effect from 21 May 2004.

By a letter dated 21 April 2004 the landlord's agent objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection

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. However, the Committee had the benefit of the Rent Officer's survey sheets and also the Summary Reasons ("the Previous Reasons") dated 19 June 2002 of the Rent Assessment Committee which previously dealt with the matter. The Previous Reasons at paragraph 2 recorded that on 21 May 2002 the property had been found in good condition and that the following tenant's improvements had been made:-

Erection of a large garden shed with flooring, installation of electric power, hot and cold water supply to supply laundry and drying facility. The tenant had created cupboard space beneath the stairs and had a stone fireplace in the living room.

3. Evidence

No written representations were received from the either 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. In the absence of evidence supplied by the parties, the Committee relied on its own general knowledge of market rent levels in the area of West Wiltshire. Having done so it concluded that such a likely market rent would be £525 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 £525 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 as referred to in the survey sheet and the Previous Reasons (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Committee again had regard to the very restricted and disputed access to the property, the need for the tenant to rent a garage at some distance and the very compact nature of the accommodation. The Committee considered that this required a deduction of £100 per calendar month.

Furthermore, to allow for the tenant's improvements (listed in paragraph 2 above) it was necessary to make a further deduction of £35 per calendar month.

The total deductions were therefore £135 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 (£525 - 135 =) £390 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £390 per calendar month.

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 £370 per calendar month (Details are provided on the back of the decision form).

Accordingly the sum of £370 per calendar month will be registered as the fair rent with effect from 12 July 2004 being the date of the Committee's decision.

Chairman

A handwritten signature in black ink, appearing to read 'R. A. Clancy', is written over a horizontal line.

Dated

The date '2 August 2004' is handwritten in black ink over a horizontal line.

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.