

Rent Assessment Committee: Reasons for decision.

Rent Act 1977

Address of Premises

11 Nicholson Court
Priory Road
Eastbourne, BN23 7AR

The Committee members were

Mr B H R Simms FRICS MCI Arb
Mr J N Cleverton FRICS
Ms J K Morris

1. Background

On 3 October 2006 the landlord tenant applied to the rent officer for registration of a fair rent of £92.60 per week for the above property.

The rent payable at the time of the application was £77.65 per week.

The rent was previously registered on 21 June 2004 with effect from the same date at £68.69 per week following a determination by the rent officer. On 4 December 2006 the rent officer registered a fair rent of £85 per week including £ 29.92 in respect of services (variable) with effect from that date.

By a letter dated 15 December the landlord tenant 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 15 February and found it to be in good condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

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

3. Evidence

The Committee received written representations from the landlord and tenant and these were copied to the parties.

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 comments made by the landlord and the Committee's own general knowledge of market rent levels in the area of Eastbourne and East Sussex. Having done so it concluded that such a likely market rent would be £85 per week.

The Committee did not consider that there was any substantial scarcity element and accordingly no deduction was made for scarcity. The Committee found that there were no differences between the subject premises and the market so no further deductions were made.

In written evidence the landlord avers that the rent registered is insufficient to cover the next two years rent increases. The Rent Act requires a valuation on the appropriate date and the Committee is unable to take into account any future rent increases.

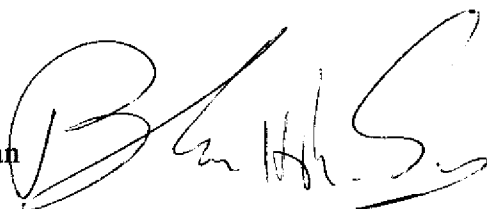
6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £85 per week inclusive of £29.92 per week (variable) in respect of services.

The section 70 fair rent determined by the Committee is below 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.

Accordingly the sum of £85 per week inclusive of services of £29.92 per week will be confirmed as the fair rent with effect from 15 February 2007 being the date of the Committee's decision.

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

Chairman 

Mr B H R Simms FRICS MCI Arb

Dated 22 February 2007