

Rent Assessment Committee: Summary reasons for decision. Rent Act 1977

Address of Premises

5 Hoe Cottages
Hoe Lane
Peaslake
Guildford
Surrey
GU5 9SW

The Committee members were

Mr I Mohabir LLb (Hons)
Mr D Lintott FRICS
Mrs J Playfair

1. Background

On 3rd December 2004 the landlord applied to the rent officer for registration of a fair rent of £1150.00 per Calendar Month for the above property.

The rent payable at the time of the application was £384.00 per Calendar Month.

The rent was previously registered on 7th February 2003 with effect from that date at £384.00 per Calendar Month following a determination by the rent officer.

On 14th February 2005 the rent officer registered a fair rent of £426.00 per Calendar Month with effect from that date.

By a letter dated 25th February 2005 the landlord 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 6th May 2005 and found it to be in poor condition as described more particularly in the Rent Officer's survey sheet dated 28th January 2003 which had been copied to the parties.

The following tenant's improvements had been made to the property.

1. Installation of Central Heating.
2. Installation of Kitchen Units.
3. Loft Insulation.
4. installation of hatch to Loft.

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 evidence supplied by the parties and/the Committee's own general knowledge of market rent levels in the area of The Villages to the East of Guildford. Having done so it concluded that such a likely market rent would be £875.00 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 £875.00 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 (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 £405.00 per Calendar Month including the Tenants improvements (listed above)

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 £470.00 per Calendar Month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £470.00 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 £427.50 per Calendar Month.

Accordingly the sum of £427.50 per Calendar Month will be registered as the fair rent with effect from 6th May 2005 being the date of the Committee's decision.

Chairman Mr I Mohabir LLb (Hons)

Dated 6th May 2005

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.