

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

### **Address of Premises**

23 Cavendish Avenue  
Eastbourne  
East Sussex BN22 8EW

### **The Committee members were**

Ms J A Talbot MA (Cantab)  
Mr N J Cleverton FRICS  
Mr T W Sennett MA FCIEH

## **1. Background**

On 24/02/2003 the landlord applied to the rent officer for registration of a fair rent of £260.00 per calendar month for the above property.

The rent was previously registered on 20/06/1995 with effect from 21/08/1995 at £330.00 per calendar month following a determination by the rent officer. However, the tenant indicated that she had not been asked to pay the previous registered rent and that at the time of the application she was paying rent of £135.84 per calendar month.

On 19/05/2003 the rent officer registered a fair rent of £421.50 per calendar month with effect from that date.

By a letter dated 17/06/2003 the 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 18/09/2003 and found it to be in fair condition as described more particularly in the Rent Officer's survey sheet, which had been copied to the parties.

It is a two storey semi-detached house built circa 1900 of brick construction under a slate roof, with side access to the rear, a front garden concreted for a parking space, and a small back garden. The property has 3 bedrooms, a box room, bathroom and separate w.c. on the first floor, and 2 rooms, kitchen and utility room on the ground

floor. The property has central heating installed by the tenant. Hot water is provided by central heating system. Structurally the property is basically sound, but the upstairs windows are in poor condition and there are some slates missing from the roof, causing water penetration in places.

The tenant had made improvements to the property by installing central heating, converting and refitting the kitchen, installing modern bathroom fittings, and electrical rewiring.

### **3. Evidence**

The Committee received written representations from the tenant and these were copied to the parties. No written representations were received from the landlord.

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 Committee's own general knowledge of market rent levels in the area of Eastbourne. Having done so it concluded that such a likely market rent would be £170.00 per week.

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 £170.00 per week 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 £26.00 per week, calculated as follows:

<u>Optimum market rent</u>		£170.00
<u>Deductions</u>		
Lack of white goods, carpets, curtains	£9.00	
Poor condition of windows	£8.00	
Dampness	£3.00	
Defective roof	£2.00	
Tenant's decorating liability	<u>£4.00</u>	£ 26.00

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £23.00 per week, calculated as follows:

Central heating	£10.00	
Re-wiring	£4.00	
Kitchen fittings	£6.00	
Bathroom fittings	<u>£3.00</u>	<u>£23.00</u>
Total deductions		£49.00

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 £121.00 per week.

## **6. Decision**

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £121.00 per week, equating to £6292 per annum (£524.33 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 £5090 per annum, equating to £424.17 per calendar month (details are provided on the back of the decision form). This calculation is based on a statutory formula based on the change in the retail price index since the last registration, in 1995, and this applies even though the tenant in this case has never actually been charged the previous registered rent.

**Accordingly the sum of £5090 per annum will be registered as the fair rent with effect from 18/09/2003, being the date of the Committee's decision.**

Chairman

J Tamm

Dated

26/09/03

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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.