

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

Address of Premises

93 Rutland Street
Derby
Derbyshire
DE23 8PR

The Committee members were

Mr A P Bell MA LLB
Mr P H Swift FRICS
Mrs A Bartram

1. Background

On 2 May 2003 *the landlord* applied to the rent officer for registration of a fair rent of £52.50 per week for the above property.

The rent payable at the time of the application was £50.00 per week

The rent was previously registered on 20 March 2001 with effect from 4 May 2001 at £50.00 per week following a determination by *the rent officer*.

On 14 July 2003 the rent officer registered a fair rent of £ 52.00 per week *including £4.90 per week in respect of services* with effect from *that date*.

By a letter dated 19 August 2003 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 3 October 2002 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 as referred on the rent register.

3. Evidence

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

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 Derbyshire. Having done so it concluded that such a likely market rent would be £60.00 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 £60.00 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 £8.00 per week.

The Committee found that there was substantial scarcity in the locality and therefore deducted a further sum of £5.00 per week from the market rent to reflect this element.

This leaves a net market rent for the subject property of £47.00 per week.

The Committee considered the landlord's representations that the service charge should be £3.71 per week and the support charge £9.74 per week. Referring to the Tenancy Agreement dated 27 April 1992 the landlord agreed to provide services as listed in the Schedule on page 6A of that Agreement. The obligation in the Schedule on page 6A of the Agreement is to provide a resident or other responsible member of staff in a caretaking capacity and it also provides that the staff member will provide gardening, external maintenance and communal cleaning services in accordance with


the scheme handbook. However, this handbook has not been produced to us and we have not therefore been able to form a view as to the nature and extent of the contractual liability of the landlord (if any) in this respect. For this reason the landlord's claim for a service charge of £3.71 per week, as referred to in the landlord's letter of 19 August 2003, is disallowed. The only amount which we are prepared to allow in respect of services, which were the clear obligation of the landlord, is the sum of £4.90 per week as detailed in the landlord's Schedule of support charges dated January 2003. The amount of £4.90 per week awarded in respect of the services is, in fact, the amount which the landlord sought in respect of services in his application dated 2 May 2003. To justify any higher figure the landlord should have provided clear and irrefutable evidence of his contractual liability to provide additional services and a detailed breakdown of how the charges were made up so that we could consider the value of these to the tenant. This amount of £4.90 per week should be added to the net market rent of £47.00 per week giving a total of £51.90 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £51.90 per week rounded up to £52.00 per week *inclusive of £4.90 per week 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 £ 52.00 per week *inclusive of services of £4.90 per week* will be registered as the fair rent with effect from 21 October 2003 being the date of the Committee's decision.

Chairman  _____
Mr A P Bell

Dated 21 October 2003

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.