

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

17 Lewarne Crescent
Porth
Newquay
TR7 3JW

The Committee members were

R Batho MA BSc LLB FRICS
(Chairman)
A J Ludby FRICS
Ms C Rai

1. Background

On 13th December 2004 the landlord's agent applied to the rent officer for registration of a fair rent of £650.00 per month for the above property. The rent payable at the time of the application was £160.00 per month.

On 15th February 2005 the rent officer registered a fair rent of £375.00 per calendar month with effect from the same date.

By a letter dated 24th February 2005 the Landlord asked for the matter to be referred to a rent assessment committee.

2. Inspection

The Committee inspected the property on 12th April 2005 and found it to be in fair condition. The tenants have carried out improvements as detailed on the Rent Officer's survey sheet.

3. Evidence

The Committee had the benefit of written representations received from the landlord and the tenant and these were copied to the respective parties. The tenant requested a hearing.

A hearing was held at Porthmeor Manor Hotel Newquay on 12th April 2005 at which oral representations were made on behalf of the landlord and by the tenant.

4. The Law

When determining a fair rent the Committee, in accordance with the Rent Act 1977, s.70, had regard to all the circumstances including the age, location and state of repair of the property and disregarded the effect of any relevant tenant's improvements 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 of the rent, if any, that is attributable to there being a shortage of similar properties in the locality available for letting on similar terms) and

(b) that assured tenancy (market) rents are usually appropriate market rent comparables.

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 mid Cornwall. Having done so it concluded that such a likely market rent would be £650.00 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 necessary to adjust that hypothetical rent of £650.00 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 £75.00 per calendar month.

Furthermore, to allow for the tenant's improvements, as listed above, it was necessary to make a further deduction of £100.00 per calendar month. Although the landlord's surveyor argued that the landlord had, in effect, paid for these improvements by allowing a reduced rent over a period of time, the Committee concluded that there was nothing in the Rent Act provision which allowed for improvements to be "written off" in this way and that accordingly it remained appropriate to make this deduction.

The Committee further decided that the sum of £35.00 per calendar month should be deducted by way of allowance for the repairing obligations imposed on the tenant by operation of Section 11 of the Landlord and Tenant Act 1985 (formerly Housing Act 1961).

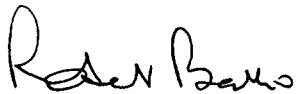
Whilst the parties accepted that there was scarcity in the localised area, the Committee are obliged to consider a wider area, and did not consider that there was any substantial scarcity element over that wider area.

This leaves a net Market Rent of the subject property at £440.00 per calendar month.

5. Decision

The fair rent initially determined by the Committee is accordingly £440.00 per calendar month. The fair rent to be registered is not affected by the Rent Acts (Maximum Fair Rent) Order 1999 because there was not an existing registered fair rent at the time of the application.

Accordingly the sum of £440.00 per calendar month will be registered as the fair rent with effect from 12th April 2005, being the date of the Committee's decision.

Signed 
Robert Batho (Chairman)

Dated **18th April 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 which must be made within 21 days from the date of issue of this document.