

Rent Assessment Committee: Reasons for decision.

Housing Act 1988

Address of Premises

FLAT 1, PETER HERVE HOUSE
THE CHIPPING
TETBURY
GLOUCESTERSHIRE
GL8 8ET

The Committee members were

Mr G C M Young MA LLM
Mr P E Smith BSc FRICS IRRV
Mr C S Gale

1. Background

On 16 February 2004 the tenant of the above property made an application for a determination of Rent under an Assured Shorthold Tenancy under section 22 (1) of the Housing Act 1988.

The tenancy is a periodic tenancy, which commenced on 1 October 2003. The current rent is £800 per calendar month.

2. Inspection

The Committee inspected the property on 16 March 2004 and found it to be in good condition.

The property is on the ground floor of a purpose built block of flats constructed to a high specification and less than one year old. There are two bedrooms, a lounge with kitchen leading from it, a bathroom and an unallocated parking space. It was let fully carpeted and curtained, and blinds and with a fully fitted kitchen and provision of TV, FM and telephone points.

The following services are provided for the tenant:

- Water tax
- Lighting, heating and cleaning of the communal parts.
- A lift

- Electricity, heating, water and sewerage for the flat
- Gardening maintenance of the grounds
- Parking for visitors
- Rubbish disposal
- The use of a communal guest room at a cost of £10 for the first night and £5 per night thereafter.
- Fire alarm system
- External window cleaning
- Television licence if tenants do not qualify for a “free” licence.

3. Evidence

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

A hearing was held at the Offices of the Tetbury Council on 16 March 2004 at which oral representations were made by/on behalf of the landlord and tenant.

The committee noted the tenants objections:

- i) The car belonging to a tenant of an adjoining block (not part of Peter Hervé House) which was parked right outside the windows of their flat and not either nearer to the tenants own flat or in the marked parking bays. It was said that the Chief Executive of the Landlords had made that arrangement.
- ii) Very near to a bedroom window and now (recently) outside their corridor were two rotary washing lines which rotated in the wind making a noise in particular the most recent one created an unwelcome intrusion of privacy.
- iii) Two pipes from two nearby flats taking fumes into the open air which could be detected by the tenant.
- iv) Heating in the flat did not work from time to time.
- v) The taps in the kitchen and bathroom were very stiff and unsuitable for old people.
- vi) The kitchen range became dangerously hot.
- vii) The extractor fan ran on for an unnecessarily long time after the kitchen light was extinguished.
- viii) There was noise and disturbance from delivery vans, especially early in the morning.
- ix) There was no warden to give after hours attention for old people.
- x) There were numerous other matters noted in the papers.
- xi) The very small size of the flat and the poor outlook.

The Chief Executive of the landlords confirmed that the block had been built with old people in mind but in the event others had been taken on as tenants. The service charge of £35.67 per calendar month had been an estimate given by the local Council for Housing Benefit purposes. The rent had been fixed on the advice, over the telephone, of a firm in Gloucester on the basis of open contracts not necessarily or specifically for old people. The property is owned by a charity serving over 50 year olds and professionals. Four out of the nine flats were let. Subsequent to the lettings the rent had been reduced, by concession, after discussions between the tenant of this flat (and other tenants); the landlords; and the local authority for Housing Benefits purposes.

The Panel reminded themselves and the tenants and landlords representatives that the Panel were concerned only with fixing the rent which the landlords “might reasonably be expected to obtain”, and in particular the financial circumstance of the tenant was outside the Committee’s remit. The committee found that the block and its grounds were maintained to a very high standard.

The problems numbered (i), (ii) and (iii) were justified.

The landlord’s representative said that the exhaust fume problem (vii) was being looked into.

The Committee rejected (iv) as being a “teething problem” in a new block.

(vi) and (viii) were matters to which the tenant would become accustomed and were no more than could be expected in modern living and in a new flat.

(v) and (ix) arose because for various reasons the flats were not in fact designed for old people specifically.

All the other matters were outside the remit of the Committee.

The Committee found that while some of these complaints were indeed justified they would not of themselves materially reflect in the rent. The papers before the Committee and the evidence at the hearing indicated that relations between the landlords and the tenants were strained. The letter from the Chairman of the Trustees 10 March 2004 offering a net curtain in an effort to provide privacy where the new rotary line intruded, together with a somewhat detached attitude to the many complaints by the tenant – some which we found were justified – indicated an unhappy initial relationship between parties.

The major problem was that while this flat was apparently most attractive in itself, its grounds and its location, it was very, very small, combined with the fact that there were very few cupboards provided and because of the size of the flat, very little space where cupboards could be provided by the tenant. The outlook was unattractive to the rear (a very small yard) and to the front was obstructed by the car. All those matters were such important features of the flat that the Committee felt obliged to fix the rent at £690 per calendar month and within that found that £40 per calendar month was the correct figure for services.

4. The law

In accordance with the terms of section 22 Housing Act 1988 the Committee proceeded to determine the rent at which it considered that the subject property might

reasonably be expected to be let on the open market by a willing landlord under an assured shorthold tenancy.

In coming to its decision the Committee had regard to the evidence supplied by the parties and the members' own general knowledge of market rent levels in the area of Tetbury and concluded that an appropriate market rent for the property would be £690 per calendar month.

5. The decision

The Committee therefore concluded that the rent at which the property might reasonably be expected to be let on the open market would be £690 per calendar month inclusive of £40 in respect of services.

This rent will take effect from 1 March 2004 being the date fixed by the Committee under S.22 (4) of the Housing Act 1988.

Chairman

 C. J. King

Dated

 8.4.04
