

Eastern Rent Assessment Panel

File Ref No: CAM/42UH/F77/2004/0087

Rent Assessment Committee: **Summary Reasons for Decision**

Rent Act 1977 ("the Act")

Address of Premises:
107 Monkswood Avenue
Waltham Abbey
Essex, EN9 1LJ

The Committee Members were:
Mr John Hewitt Chairman
Mr Richard Marshall FRICS, FAAV
Mr Robert Eschle JP

The Tenant:
Mrs G E Smith

The Landlord:
St Ermins Property Co Limited

1. Background

Previous Rent Registered	:	£ 87.00 per week
Rent proposed by the landlord	:	£131.00 per week
Rent determined by the rent officer	:	£ 97.00 per week
Rent determined by the Committee	:	£ 97.00 per week

- 1.1 On 28 May 2004 the landlord of the premises applied to the rent officer for the registration of a fair rent of £131 per week for the premises, pursuant to section 67 of the Act.
- 1.2 The rent was previously registered on 24 July 2002 with effect from 30 August 2002 was a rent of £87 per week.
- 1.3 On 5 July 2004 the rent officer registered a fair rent of £97 per week with effect from 30 August 2004.
- 1.4 By letter dated 13 June, but received by the rent officer on 19 July 2004 the landlord objected to the rent determined by the rent officer, and the matter was referred to the Rent Assessment Committee.

2. Inspection

- 2.1 The Committee inspected the premises on 30 September 2004 and found them to be in fair to poor condition
- 2.2 The following tenant's improvements had been made to the premises:
External doors to the side lobby
Gas fire and surround in the living room.
- 2.3 The following services are provided for the tenant:
None

3. Evidence

- 3.1 The committee received written representations from the landlord and from the tenant. These were copied to the opposite party.
- 3.2 Neither party requested a hearing

4. The Law

- 4.1 When determining a fair rent the Committee, in accordance with section 70 of the Act, had regard to all of the circumstances including the age, location and state of repair of the premises. 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 tenancyon the rental value of the premises.
- 4.2 In *Spathe Holme Limited 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 premises discounted for "scarcity" (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar premises in the wider locality available for letting on similar terms - other than as to rent to that of the regulated tenancy in question, and
 - b) that for the purpose 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 premises.

5. Valuation

- 5.1 In the first instance the Committee determined what rent the landlord could reasonably be expected to achieve for the premises in the open market if the premises 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 submitted by the landlord and to the Committee's own general knowledge of market rent levels in the area Waltham Abbey. Having done so, it concluded that such a likely market rent would be £185 per week.

- 5.2 However, the premises are not in the condition considered usual for a modern market letting at a market rent. Therefore it was necessary to adjust the hypothetical rent of £185 per week to allow for the differences between the condition considered usual for such a letting and the condition of the actual premises as observed by the Committee, (but 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 £55.50 per week.

- 5.3 The Committee determined that the market rent for the premises, so adjusted was £129.50 per week.

- 5.4 The Committee found that there was substantial scarcity in the locality of the North east London, Essex and Hertfordshire and therefore made a further deduction of about 20% from the market rent to reflect this element.

- 5.5 Calculations:

Open market rent	£ 185.00	per week
Deduction for lack of modern amenities	£ 55.50	per week
Open market rent for the premises	£ 129.50	per week
Deduction for scarcity	£ 26.00	per week
Fair rent (uncapped)	£ 103.50	per week

6. The Decision

- 6.1 The uncapped fair rent determined by the Committee, pursuant to section 70 of the Act, was accordingly £103.50 per week, inclusive of services.

The Committee then considered the Rent Acts (Maximum Fair Rent) Order 1999 SI 1999 No.6 ('the 1999 Order') and the question whether the fair rent was to be capped in accordance with its provisions. The landlord has acknowledged that it has not carried out any major works or improvements since the last fair rent registered on 24 July 2002. The landlord does not contend that the rent should not be capped. The landlord's agent, in its letter to the rent officer dated 13 June 2004, expressly says

'...our client has requested that we lodge an appeal on their behalf in this instance on the basis the uncapped rent being £105.00 per week.'

- 6.3 The Committee decides that the fair rent is to be capped on accordance with the 1999 Order because none of the exceptions to capping apply to the circumstances of this case and the landlord does not contend otherwise.
- 6.4 The cap to be imposed is £97 per week, as shown in the attached Maximum Fair Rent Calculation.
- 6.5 Accordingly, the sum of £97 per week, inclusive of services will be registered as the fair rent of the premises with effect from 30 September 2004 being the date of the Committee's decision.



Chairman

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John Hewitt

Dated

30 September 2004

Note:

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 **28** days from the date on which this document is sent to the parties.