

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

Address of Premises

145 East Street,
Newton Abbot,
TQ12 2LQ

The Committee members were

Mrs T C Clark (Chair)
Mr E G Harrison FRICS
Miss C Gorna

1. Background

On 1st August 2005 the landlord applied to the rent officer for registration of a fair rent of £75.00 per week for the above property.

The rent payable at the time of the application was £ 66.00 per week.

The rent was previously registered on 9th October 2003 with effect from 31st October 2003 at £ 66.00 per week following a determination by the rent officer.

On 24th August 2005 the rent officer registered a fair rent of £73.00 per week with effect from 31st October 2005.

By a letter dated 5th September 2005 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 Thursday 27th October 2005 and found it to be in ~~good~~/fair/~~poor~~ condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The following tenant's improvements had been made to the property ..

Installation of gas-fire and extension of gas supply, kitchen sink and other minor improvements as listed in the Rent Officer's survey sheets.

3. Evidence

The Committee received written representations from the landlord's representatives and the tenant and these were copied to the respective parties. Both parties requested a hearing which was held at Newton Abbot Town Council Offices on Thursday 27th October 2005 at 11:00 am at which oral representations were made by/on behalf of the tenant/landlord. ~~The tenant/landlord was not present or represented.~~

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).

The Committee also has to have regard to the Rent Acts (maximum fair rent) order 1999 where applicable. Most objections to and determinations of registered rents are

now subject to the order, which limits the amount of rent that can be charged by linking increases to the retail price index. It is the duty of the Rent Assessment Committee to arrive at the fair rent under Section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules set out in the order. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rent for 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 landlord and the Committee's own general knowledge of market rent levels in the area of* ^{Newton Abbott and district Torbay}. Having done so it concluded that such a likely market rent would be £110 per week.

However, the actual property is not in the condition considered usual for a modern letting at a market rent (usually Assured Shorthold Tenancies). Therefore, it was first necessary to adjust that hypothetical rent of £110 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 £30 per week.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £5 per week.

~~The Committee decided that the relevant differences between the subject property and the comparable properties given in evidence were so great as to make it inappropriate to rely on the market rent less scarcity approach in this case. It therefore relied on its knowledge and experience to assess a fair rent of £ per~~

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 £ ¹¹⁰ per. week

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £ ¹¹⁰ per. week

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 £ per 73.00 p.w .

~~*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 of the maximum fair rent are provided on the back of the decision form.*~~

Accordingly the sum of £ 73 per week will be registered as the fair rent with effect from 31st October 2005 being the date of the Committee's decision.

Chairman 

Mrs. T C Clark

Dated 27th October 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 at the Panel Office which must be made within 21 days from the date of issue of this document.

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2. Inspection

The Committee inspected the property on Thursday 27 October 2005 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.

The following tenant's improvements had been made to the property.
Installation of gas fire and extension of gas supply. Kitchen sink and other minor improvements as listed in the Rent Officer's survey sheets

3. Evidence

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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.

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- (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).

The Committee also has to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 where applicable. Most objections to and determinations of registered rents are

now subject to the Order which limits the amount of rent that can be charged by linking all increases to the retail price index. It is the duty of the Rent Assessment Committee to arrive at the fair rent under Section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules set out in the Order. If that maximum rent is below the fair rent calculated as above then that (maximum) sum must be registered as the fair rent for 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 landlord and the Committee's own general knowledge of market rent levels in the area of Newton Abbot and Torbay. Having done so it concluded that such a likely market rent would be £110 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 £110 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 £30 per week.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £5.00 per week.

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 £75.00 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £75.00 per week.

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 £73.00 per week (Details are provided on the back of the decision form).

Accordingly the sum of £73.00 per week will be registered as the fair rent with effect from 31 October 2005.

Chairman Signed. Mrs Tessa Clark

Dated 27 October 2005

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