

Rent Assessment Committee:**Housing Act 1988 – Section 22****Address of Premises**

43 Magna Road
Egham
Surrey
TW20 0PN

The Committee members were

Mrs H Bowers BSc(Econ) MRICS MSc
Mr R Potter FRICS
Mr D Wills ACIB

1. Background

On 20th August 2004 the tenants of the above property applied to the Committee for a determination under section 22 of the Housing Act 1988.

The tenancy commenced on 1st July 2004 for a term of one year less one day. The current rent payable for the whole property is £1,240 per calendar month.

2. Inspection

The Committee inspected the property on 27th October 2004 and found it to be in a generally good condition.

The property is an inner terrace house with one study bedroom, a kitchen/diner and a shower room/WC on the ground floor and three study bedrooms on the first floor.

The property is generally in a good condition with central heating and UPVc double glazed windows. The property is furnished and we were given sight of the inventory. The furnishings, including the white goods, the carpets and curtains and the internal decorations were in a good condition.

However, it was noted that there was only one small shower-room serving the whole house and this had evidence of condensation problems. The shower-room lead

directly from the kitchen/diner. It was noted that although there was a kitchen/diner there was no other communal room for the students.

After the inspection of the subject property the Committee was shown 34 Ashwood Road, a vacant house that is available to let at £1,300 per calendar month. This is a semi-detached house with one study bedroom, a living room, a kitchen, an outside WC and a shed area on the ground floor and three study bedrooms, a bathroom and a separate WC on the first floor. The house has central heating, but the standard of the decorations is average/poor.

3. Evidence

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

A hearing was held at the Salvation Army Hall in Ashford at which oral representations were made by the tenant's representative and the landlord's agent.

The Tenant's Case

Mrs Shawyer, representing the tenants produced a number of lettings lists of rooms and houses that are available to let in the Englefield Green area. The comparables indicated that there were properties available which had a lower rent than the subject premises or if the rent was at a similar level, then the facilities provided were of a higher standard than provided at 43 Magna Road. It was suggested that the lack of a living room would have a more significant impact on the rental value and that there were a number of defects to the house, including dampness in the shower-room.

The Landlord's Case

Amongst other matters, Mr Daines, acting for the landlord produced details of houses that had been let on assured shorthold tenancies that demonstrated that the level of rent for the subject property was not significantly higher than other houses in the vicinity. We were informed that there were guidelines in respect of the size of study rooms and the provision of services and that in the case of 43 Magna Road, the room sizes were large in comparison to those guidelines.

Prior to the current tenancy the property had been let to a group of four girls for the previous two years at a rent of £1,200 per calendar month, a further indication that the level of rent of £1,240 currently payable was not unreasonable.

Finally, correspondence was received from the landlord's agent after the hearing, this correspondence was not considered by the Committee.

4. The law

In accordance with the terms of section 22(3) Housing Act 1988 (the Act), the Committee may make a determination of the rent at which it considers that the subject property might reasonably be expected to be let under the assured Shorthold tenancy. However, the Committee may not make such a determination unless it considers-

- a. that there is a sufficient number of similar dwelling-houses in the locality let on assured tenancies (whether Shorthold or not); and
- b. that the rent payable under the assured Shorthold tenancy in question is significantly higher than the rent, which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

Section 22(5) provides that for the purposes of this section "rent" includes amongst other things any sums payable to the landlord by the tenant in respect of council tax.

Section 22(5) provides that for the purposes of section 22 "rent" does not include a "service charge" within the meaning of section 18 Landlord and Tenant Act 1985 (i.e. where the service charge payable by the tenant is variable from time to time according to the relevant costs). However, it does include a "fixed" service charge.

5. The decision

The Committee concluded that the first requirement of section 22(3) was satisfied, namely that there were a sufficient number of similar dwellings houses in the locality let on assured tenancies. Whilst the comparable shown to us by Mr Daines was of limited assistance as this property is unlet; the Committee were of the opinion from both the other evidence supplied by both the parties and from the Committee's own

general knowledge of rental levels in the area that the rent of £1,240 for the subject property was a little high. However, we were not convinced that it was significantly higher than the level of rent one would expect for the property. Therefore in accordance with the provisions of section 22(3) of the Act we have made a non-determination. Accordingly, the rent will remain at £1,240 per calendar month.

Chairman



Dated

_____ 9 / 11 / 04 _____
