

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

Address of Premises

74 Broadway,
Exeter,
EX2 9LZ

The Committee members were

Mr T E Dickinson BSc FRICS (Chair)
Mr W H Gater FRICS
Mr M J Sharples FRICS

1. Background

On 22nd April 2004 the landlord's agent applied to the rent officer for registration of a fair rent of £ 550.00 per calendar month for the above property.

The rent payable at the time of the application was £ 323.00 per calendar month.

The rent was previously registered on 22nd November 2001 with effect from 23rd December 2001 at £ 323.00 per calendar month following a determination by the rent officer.

On 18th June 2004 the rent officer registered a fair rent of £ 362.00 per calendar month with effect from that date.

By a letter dated 28th June 2004 the landlord 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 12th August 2004 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:

- a) Installation of gas fires in the entrance hall, sitting room and dining room.
- b) Provision of new glazed panelled door to sitting room.

- c) Fitting of kitchen units including stainless steel single drainer sink unit and wall cupboard.
- d) Provision of cooker point, one 13 amp power point, folding door and new back door in kitchen.
- e) Provision of new toilet, cistern and pan in bathroom/wc.
- f) Installation of shower in bathroom.
- g) Tiling around bath.
- h) Loft insulation.
- i) Provision of summerhouse and greenhouse.

3. Evidence

The Committee received written representations from the landlord's representatives and these were copied to the tenant. No written representations were received from the tenant. No hearing was requested.

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 Exeter and East Devon. Having done so it concluded that such a likely market rent would be £625 per calendar month.

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 £625 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 £120 per calendar month.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £30 per calendar month.

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 £475 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £475 per calendar month

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 £364 per calendar month.

Accordingly the sum of £364 per calendar month will be registered as the fair rent with effect from 12th August 2004 being the date of the Committee's decision.

Chairman (signed) T E Dickinson BSc FRICS (Chairman)

Dated 12th August 2004

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.