

EASTERN RENT ASSESSMENT PANEL

Statement of Reasons for the Decision by a Committee of the Panel following an Inspection
carried out on 19th March 2004

Rent Assessment Committee

Mrs H C Bowers MRICS (Chairman)

Mr J J Sims

Mr B Tyers

Case No.: CAM/00Ma/F77/2004/13
Re: Tory Hall Lodge, Winkfield Lane, Winkfield, Berkshire.
Landlord: Ms L Burston
Tenant: Mr & Mrs J Weare

Introduction

1. The property the subject of this objection is a detached cottage that is let by Ms Burston ("the landlord") to Mr & Mrs Weare ("the tenant") on an unfurnished regulated tenancy governed by the Rent Act 1977 ("the Act"). Consequently the rent payable by the tenant is a fair rent as defined in section 70 of the Act and it falls to be reviewed not more than once every two years. In an application made by the landlord's agent dated 1st December 2003, a rent of £125 per week was proposed. On 12th January 2004 the Rent Officer determined a rent of £97.50 per week in respect of the subject property and registered it so that the rent was effective from that date. The uncapped rent was £112 per week. Prior to the current registration, the rent was registered at £88 per week with effect from 19th November 2001. In a letter dated 29th January 2004 the tenant objected to the current registration and so the matter came before the Committee.

The Statutory Provisions

2. Attached to this Statement of Reasons is a resume of the law as applied by the Committee. It forms an integral part of the Reasons of the Committee.

Inspection

3. We made an inspection of the property on the 19th March 2004 in the company of Mr Weare and Mr Drew, a representative from the agents acting for the landlord. The subject property is a detached cottage dating from circa 1850's. The house is of brick and tiled construction. The

accommodation currently comprises a reception room, an open plan kitchen and dining room and a bathroom on the ground floor. On the first floor there is a large landing area that is used as a bedroom and a further double bedroom. The tenant has carried out extensive improvements to the property including the installation of central heating, the re-arrangement of the accommodation including knocking the kitchen and dining room into one room. The kitchen and bathroom are in very good order and this is due to the refurbishment carried out by the tenant. Externally the windows are showing some evidence of rot and are in need of attention.

4. There are no gardens to the front of the house and a small garden to the rear. There is off street parking for approximately two cars on the shared driveway. There is a garage that is attached to a small bungalow. The cottage is located in an attractive semi-rural location.

Representations

5. The parties indicated that they did not wish to have a formal hearing. Accordingly the matter was dealt with by the means of written representations. Representations were received from Messrs Carter Jonas, the agents acting for the landlord and from the tenant. These representations were copied to the other party.

Landlord's Representations

6. In their written representations, Messrs Carter Jonas made reference to a letting of a one bedroom apartment, adjacent to the main house, that is let at £650 per calendar month. In the agent's opinion the open market rent of the subject property would be £200 per week. It was acknowledged that the property is subject to capping and that in the circumstances, the agents suggest that their client is happy to accept the uncapped rent of £112 per calendar month.

Tenant's Representations

7. In the written representations Mr Weare provided a brief history of the rental increases. After discussions with local estate agents it is the opinion of the tenant that rents have not risen in the last two years. Whilst it is understood that the rent is capped, there is a concern that if capping should cease, then the fair rent would become relevant.
8. The tenant has spent a considerable amount of time and money on the house. There has been no work carried out to the property by the landlord. Mr Weare expresses the view that he does not

see the relevance of the open market letting of the Annex, as this letting is on a different basis to the one under current consideration.

Consideration

9. When considering the rental of a property under the provisions of the Rent Act 1977 we are obliged to ignore any personal circumstances when arriving at rental values. Likewise we are required to ascertain the market rent from which various deductions may be made to reflect the circumstances of the tenancy under consideration.
10. In the judgement of the Court of Appeal in the case of *Curtis v London Rent Assessment Committee* {30 HLR 733} the Court held that the starting point for the determination of the fair rent must be the open market rent appropriate for the property. A fair rent is the open market rent adjusted for the statutory disregards and for scarcity. As to the scarcity factor, in the case of *Queensway Housing Association Limited v Chiltern, Thames and Eastern Rent Assessment Committee*, the Court held that the Committee must consider a really large area that gives an appreciation of the trends of scarcity and their consequences, in determining whether the factor is applicable in the instant case. In the light of the recent House of Lords decision, the Committee also has to consider the application of the maximum fair rent under the capping formula.
11. In the first instance we must look at the level of rents in the open market as these provide us with the closest guidance as to the level of fair rents once certain deductions have been made and these are considered below. Messrs Carter Jonas supplied us with very brief details of a letting of a one bedroom apartment adjacent to Tory Hall Farm at £650 per month. Whilst this information was useful, the accommodation is not comparable to that provided at the subject property. Given the Committee's own knowledge of the local market, having given consideration to the comparable referred to above and taking in to account the accommodation we saw during the inspection, we are satisfied that the subject house could let for £725 per calendar month.
12. However, properties let in the open market are generally in a good, modern letting condition. By "good modern letting condition" we mean what a prospective tenant would expect to find. The property would be in good structural and decorative order both inside and out. It would be

carpeted and might have curtains. It might also have some “white goods” such as a cooker and a washing machine. That is what people in this locality expect of a letting on the open market.

13. The adjustments we have mentioned are to reflect the differences between such a property and the one we are considering. They are adjustments to allow for the effect that those differences would have on the rent it would fetch in the open market.
14. No carpets, curtains nor white goods are included in this letting. We have made an adjustment of £90 per calendar month to allow for the difference, being the amount of the reduction in rent that we believe a prospective tenant would expect to receive in the open market to reflect these issues.
15. The tenant has carried out extensive refurbishment work to the property including a rearrangement of the accommodation, the refurbished kitchen and bathroom and the installation of the central heating. Accordingly we have made a reduction of £125 per calendar month to reflect these items of improvement.
16. The property has been very well maintained by the tenant. However there are some outstanding items of repair that are the responsibility of the landlord. In particular the windows are in need of some attention. In our opinion this issue would affect the rental of the property and therefore the rent has been reduced by a further £20 per calendar month to reflect the disrepair. This results in an adjusted market rent of £490 per calendar month.
17. We need to consider whether there should be any allowance for the effects of scarcity. We considered the market in East Berkshire for this purpose. That seems to us to be the area in which conditions of supply and demand would be likely to affect the rent for the property with which we are concerned and from which prospective tenants are likely to be drawn. It seems to us to be the extent of the really large area that the Courts have described as being appropriate to this purpose. We also took into account our collective knowledge and experience of the market in that area. We bore in mind that we must consider the effect that scarcity might have on the net rent after the adjustments. We have come to the conclusion that whilst we had no specific representations before us, there is a general imbalance of supply and demand within the locality we have described and therefore we have made an allowance of 12.5% for scarcity.

18. We therefore produced the following calculation on a calendar monthly basis:

		£
Open Market Rent:		725
Less allowances for:		
Lack of Carpets, Curtains and White Goods	90	
Tenant's Improvements	125	
Windows	<u>20</u>	
	235	<u>235</u>
		490
Less Scarcity at 12.5%		<u>60</u>
		£430
Fair Rent	Say £100 per week	

19. We therefore determined a rent for the subject property of £100 per week. However, the fair rent of £100 per week is capped by the Rents Acts (Maximum Fair Rent) Order 1999 and the amount to be registered as the fair rent is limited to **£97.50 per week**. Details are provided with this decision form. This rent will be registered with effect from **19th March 2004** being the date of the Committee's decision.

Chairman

Date:-



1/4/04