

**Rent Assessment Committee: Summary reasons for decision.  
Housing Act 1988****Address of Premises**

3 Edinburgh Road  
Hurley  
Atherstone  
CV9 2NL

**The Committee members were**

Mr A J Engel  
Mr M Williams  
Mrs E Everett

**1. Background**

On 20 June 2005 the tenant of the above property referred to the Committee a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.

The landlord's notice, which proposed a rent of £303.50 per month with effect from 28 June 2005 is dated 23 May 2005.

The tenant remains in occupation as a statutory periodic tenant. The current rent is £275.00 per month.

**2. Inspection**

The Committee inspected the property on 17 August 2005 and found it to be in fair condition.

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

2 kitchen wall units

Bathroom suite

Toilet suite

**3. Evidence**

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

Neither party requested a hearing at which oral representations could be made.

**4. The law**

In accordance with the terms of section 14 Housing Act 1988 the Committee proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

In so doing the Committee, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

In coming to its decision the Committee had regard to the evidence supplied by the parties and the members' own general knowledge of market rent levels in the area of Nuneaton and concluded that an appropriate market rent for the property would be £286.00 per month.

## **5. The decision**

The Committee therefore concluded that the rent at which the property might reasonably be expected to be let on the open market would be £286.00 per month.

This rent will take effect from 23 June 2005 being the date specified by the landlord in the notice of increase.

Chairman     Mr A J Engel

Dated 17 August 2005

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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 21 days from the date of issue of this document.

**Rent Assessment Committee: Extended reasons for decision.  
Housing Act 1988****Address of Premises**

3 Edinburgh Road  
Hurley  
Atherstone  
CV9 2NL

**The Committee members were**

Mr A J Engel  
Mr M Williams  
Mrs E Everett

**1. Background**

On 20 June 2005 the tenant of the above property referred to the committee a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.

The landlord's notice, which proposed a rent of £303.50 per month with effect from 23 June 2005 is dated 23 May 2005.

The tenancy commenced in 1991. The tenant remains in occupation as a statutory periodic tenant. The rent, on 23 May 2005, was £275.00 per month. No services are provided by the landlord.

**2. Inspection**

The committee inspected the property on 17 August 2005 and found it to be in fair condition.

**3. Tenant's Improvement**

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

2 kitchen wall units  
Bathroom suite  
Toilet suite

(The evidence of these improvements was provided during the inspection. The committee accepted this evidence and we included reference to these improvements in the summary reasons. It is noted that the landlord has not questioned this aspect of the committee's findings.)

**4. Written Evidence**

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

Neither party requested a hearing at which oral representations could be made.

The landlord's written representations were contained in a short letter (dated 4<sup>th</sup> July 2005) from the landlord's agent (Howkins & Harrison). The relevant part thereof stated:-

"The tenants at the above property have been paying £275.00 per calendar month, and we feel that the rent set for this property is too low. We have similar properties in the same area, which are the same rent or more."

## **5. The law**

In accordance with the terms of section 14 Housing Act 1988 (the Act), the committee proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured (shorthold) tenancy.

In so doing we disregarded the effect on the rental value of the property of the tenant's improvements (see Paragraph 3 above) - in accordance with section 14(2) of the Act.

## **6. The decision**

In coming to its decision the Committee had regard to the written representations of the parties. However, the tenant's representations did not deal with rental levels of other properties and the landlord's written representations were of little assistance - although we accepted the evidence of the landlord's agent that they had "similar properties in the same area, which are the same rent or more"

Accordingly, we relied on the members' own general knowledge of market rent levels in the area of Nuneaton and concluded that an appropriate market rent for the property would be £286.00 per month.

## **7. Conclusion**

The Committee therefore concluded that the rent at which the property might reasonably be expected to be let on the open market would be £286.00 per month.

There was no evidence of undue hardship. The committee therefore ordered that this rent would take effect from 23 June 2005 - being the date specified by the landlord in the notice of increase.

The committee's decision was dated 17<sup>th</sup> August 2005 and it was promulgated to the parties, together with the committee's summary reasons (also dated 17<sup>th</sup> August 2005).

## **8. Post Script**

By letter, dated 27<sup>th</sup> September 2005, the landlord's agent requested extended reasons.

Although, there is normally a 21 day limit for such request, the Chairman agreed to the request in this case (despite it being out of time).

In its letter of 27<sup>th</sup> September 2005, the landlord's agent states:-

" I have spoken directly to the landlords, Hurley Housing Limited, they advise that the house is of the same three bedroom design as the majority of other houses on the Hurley Estate and it has had improvement works undertaken. We have existing lettings of similar houses on the estate at between £300-£325 per calendar month and all new lettings of this type of house are at £345 per calendar month on assured shorthold tenancies. The rent as set by the Rent Assessment Panel can be demonstrated therefore to be significantly below the market level."

As this evidence was received after the committee had made its decision, the committee was, of course, unable to take it into account in reaching its decision.

Further, the committee, having promulgated its decision, has no power to re-open the case. The committee is "functus officio".

Although I have not found a case concerning a rent assessment committee, this principle is established by a number of cases. The leading case is In re 56, Denton Road, Twickenham 1953 1 Ch 51, which has been followed in later cases. For a recent example, see Paragraph 17 of the Judgement of Mr Justice Richards in R\_\_\_ v Immigration Appeals Tribunal ex parte Zahid Ali 1998 EWHC Admin 244.

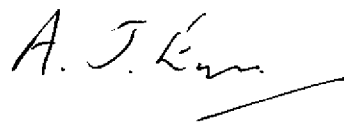
In this respect, the committee differs from the High Court in that the High Court is a superior Court of Record (with common law powers) whereas the committee depends solely on the relevant statutes for its powers.

It is for this reason that other creatures of statute such as Magistrates' Courts and Employment Tribunals are given specific statutory powers to re-open cases (in specified circumstances). However, the only power of correction given to a rent assessment committee is that provided by Regulation 10(2) of the Rent Assessment Committees (England and Wales) Regulations 1971, which gives a Chairman power to correct any clerical or accidental error or omission in a Decision Notice.

This does not mean, of course, that mistakes made by a rent assessment committee cannot be corrected but it does mean that only the High Court can do so.

Accordingly, the committee is unable to re-consider its decision.

Signed



(A.J.ENGEL - Chairman)

Dated 31<sup>st</sup> October 2005