

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

5 Byron Road
Eastleigh
Hants
SO50 4FR

The Committee members were

Miss R. Wynn-Jones
Mr. K. M. Lyons FRICS
Mr. P. Owen

1. Background

On 7th May 2003 the landlord applied to the rent officer for registration of a fair rent of £ 450 per calendar month for the above property.

The rent payable at the time of the application was £ 325 per calendar month.

The rent was previously registered on 26th June 2001 with effect from 2nd August 2001 at £ 325 per calendar month following a determination by the Rent Officer.

On 27th June 2003 the rent officer registered a fair rent of £ 354 per calendar month with effect from 2nd August 2003.

By a letter dated 23rd July 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 28th October 2003 and found it to be in poor condition. The property comprised a two storey semi detached brick built residence which was believed to have dated from the 1930s, with a later, single storey extension to form a bathroom. The property was found to contain two living rooms, a kitchen and bathroom on the ground floor. There were three bedrooms on the upper floor, although one was very small. There was a good sized garden at the rear of the property, with access from the back of the house, and a side path to a small front

garden. This contained hard standing, in poor condition, constructed by the tenant for parking one vehicle.

The tenant's son advised that the only supply of hot water was from the electric shower in the bathroom. The tenant's son also said that the tenant had originally installed the electric powerpoints. The landlord had installed replacement windows. The internal decorative condition of the property was generally poor.

3. Evidence

No written representations were received from either party, other than the landlord's application for registration of a fair rent, and the tenant's objection to such registration.

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 took into consideration the provisions of the Rent Act (Maximum Fair Rent) Order 1999 in reaching its determination of the rent to be paid for the 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 Committee's own general knowledge of market rent levels in the area of Eastleigh. Having done so it concluded that such a likely market rent would be £ 650 per calendar month.

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 £ 650 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 £ 275 per calendar month.

Having considered the work carried out by the tenant referred to above, it was not considered that such work would prompt any further deduction to be made.

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 £375 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £ 375 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 £355 per calendar month. (Details are provided on the back of the decision form).

Accordingly the sum of £ 355 per calendar month will be registered as the fair rent with effect from 28th October 2003, being the date of the Committee's decision.

Chairman

Quamron Gynd Jones

Dated

4th December 2003

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.