

Rent Assessment Committee: Reasons for decision.

Rent Act 1977

Address of Premises

7 Mill Walk
Barming
Maidstone
Kent
ME16 9LE

The Committee members were

Mr I W Collins FRICS IRRV
(Chairman)
Mr M Marshall FRICS
Ms J Dalal

Tenant: Mrs B Manser

Landlord: St Ermins Property Company Limited

1. Background

On the 17th December 2004 the landlord applied to the rent officer for registration of a fair rent of £1,095 per month for the above property.

The rent was previously registered on the 27th January 2003 with effect from the 27th February 2003 at £84.50 per week following a determination by the rent officer.

On the 27th January 2005 the rent officer registered a fair rent of £92 per week with effect from the 27th February 2005.

By a letter dated the 5th January 2005 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 the 14th March 2005 and found it to be in fairly poor condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The property is semi detached, constructed of traditional materials, brick with a tile roof. The accommodation provides: ground floor front entrance hall and staircase, reception room, rear kitchen, rear bathroom, first floor front double bedroom, rear single bedroom and box room. There is a large garden to the front, side and rear. Mill Walk is a cul-de-sac with an unmade section of road to the property.

The property has modern replacement pvc double glazed windows and new wooden front door recently installed by the landlord. The property is generally in fair order only; without central heating, repair works necessary to the pathways, front gutters and barge boards, signs of settlement cracking to most lintel supports and damaged tiles. The tenant has undertaken a number of repairs and improvements including: replacement kitchen units and fittings, decorations, chimney and roof repairs.

The property is located in a residential area on the outskirts of Maidstone, with local shops and bus routes to the town centre.

3. Evidence

The Committee received written representations from the landlord and tenant and these were copied to the parties. The landlords agents provide comparable evidence of properties in Sidcup and Badlesmere.

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

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).

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 parties and the Committee's own general knowledge of market rent levels in the area of mid Kent. Having done so it concluded that such a likely market rent would be £145 per week.

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 £145 per week 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 £25 per week.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £29 per week.

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 £91 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £91 per week.

The section 70 fair rent determined by the Committee is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect. Details are provided on the back of the decision form.

Accordingly the sum of £91 per week will be registered as the fair rent with effect from the 14th March 2005 being the date of the Committee's decision.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Chairman

Dated 14th March 2005