

Rent Assessment Committee: Reasons for decision.
Rent Act 1977

Address of Premises

Hope Cottage
46 Station Road
Halstead
Kent
TN14 7DJ

The Committee members were

Mr. R. Norman,
Mr. B.H.R. Simms FRICS, MCIArb
Mr. T.J. Wakelin

1. Background

On 30th December 2004 the landlord applied to the rent officer for registration of a fair rent of £1690 per calendar month for the above property.

The rent payable at the time of the application was £566.50 per calendar month.

The rent was previously registered on 10th February 2003 with effect from the same date at £566.50 per calendar month following a determination by a rent assessment committee.

On 9th February 2005 the rent officer registered a fair rent of £628.50 per calendar month with effect from 10th February 2005.

By a letter dated 22nd February 2005 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 17th May 2005 and found it to be in fair condition. It is a small house with steep winding stairs and one of the bedrooms is an attic room with limited light and ventilation. The property does not have the benefit of off road parking.

The tenant has provided loft insulation and draught excluders and the white goods and carpets and curtains belong to the tenant.

3. Evidence

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

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 Sevenoaks and Orpington. Having done so it concluded that such a likely market rent would be £780 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 £780 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 £63 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 £717 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £717 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 £630.50 per calendar month (Details are provided on the back of the decision form).

Accordingly the sum of £630.50 per calendar month will be registered as the fair rent with effect from 17th May 2005 being the date of the Committee's decision.

Chairman



Dated

17.05.05