

Notice of the Rent Assessment Committee Decision

Rent Act 1977 Schedule 11

Address of PremisesTOP FLAT, 75 BROXHOLM ROAD,
LONDON, SE27 0BJ**The Committee members were**Mrs N Dhanani LLB (Hons)
Mr D N Huckle FRICS
Mrs S Justice**Landlord** Mr T Piracha**Tenant** Mrs U J Patel

1. The fair rent is £ 100.00 Per week (excluding water rates and council tax but including any amounts in paras 3&4)

2. The effective date is 20th February 2007

3. The amount for services is £ negligible Per

4. The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is

£ not applicable Per

5. The rent is not to be registered as variable.

6. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply (please see calculation overleaf).

7. Details (other than rent) where different from Rent Register entry

Second W/C on half landing. Shared use of garden and basement store.

8. For information only:

- (a) The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999, because it is below the maximum fair rent of £100.50 per week.

Chairman N Dhanani**Date of Decision** 20 February 2007

MAXIMUM FAIR RENT CALCULATION

LATEST RPI FIGURE x 202.7

PREVIOUS RPI FIGURE y 186.5

X 202.7 Minus y 186.5 = (A) 16.2

(A) 16.2 divided by y 186.5 = (B) 0.086863

First application for re-registration since 1 February 1999 NO

If yes (B) plus 1.075 = (C)

If no (B) plus 1.05 = (C) 1.136863

Last registered rent* 88 Multiplied by (C) = 100.04
*(exclusive of any variable service charge)

Rounded up to nearest 50 pence = 100.50

Variable service charge NO

If YES add amount for services

MAXIMUM FAIR RENT = 100.50 Per Week

Explanatory Note

- The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
- In summary, the formula provides for the maximum fair rent to be calculated by:
 - increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
 - adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).

A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B).

The result is rounded up to the nearest 50 pence.
- For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Committee's fair rent determination was made.
- The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.

Rent Assessment Committee: Summary reasons for decision

Rent Act 1977

Address of Premises

Top Flat
75 Broxholm Road
London
SE27 0BJ

The Committee members were

Mrs N Dhanani LLB (Hons)
Mrs D N Huckle FRICS
Mrs S Justice

1. Background

On 8 August 2006 the landlord/tenant applied to the rent officer for registration of a fair rent of £130 per week for the above property.

The rent payable at the time of the application was £88 per week.

The rent was previously registered on 7 May 2004 with effect from the same date at £88 per week following a determination by a rent assessment committee.

On 23 November 2006 the rent officer registered a fair rent of £99 per week with effect from that date.

By a letter dated 27 November 2006 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 20 February 2007 and found it to be externally in fair condition and otherwise as described more particularly in the Rent Officer's survey sheet which had been copied to the parties. The landlord has carried out various works including the installation of a second WC in the bathroom.

3. Evidence

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

A hearing was held on 20 February 2007 in Alfred Place, London WC1 at which oral representations were made by the landlord and on behalf of the tenant.

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 West Norwood. Having done so it concluded that such a likely market rent would be £175 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 £175 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 £50 per week.

This leaves an adjusted market rent for the subject property of £125 per week.

The Committee found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% from the market rent to reflect this element.

6. Decision

The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £100 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.

The Committee gave careful consideration to whether the improvements that the landlord had made were such as to increase the fair rent last registered by more than 15% thereby exempting the property from the effect of the Rent Acts (Maximum Fair Rent) Order 1999. The Committee concluded that the improvements did not increase the fair rent last registered by more than 15%.

Accordingly the sum of £100 per week will be registered as the fair rent with effect from 20 February 2007 being the date of the Committee's decision.

Chairman: N Dhanani

Dated: 20 February 2007

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 written request to the committee clerk at the Panel Office which must be made within 28 days from the date of issue of this document.

FRSUMREAS/2002