

**Eastern Rent Assessment Panel**

**File Ref No: CAM/22UB/F77/2004/0095**

**Rent Assessment Committee: Summary Reasons for Decision**

**Rent Act 1977 ("the Act")**

**Address of Premises:**

Cliftonville  
Clifton Road  
Basildon, Essex  
SS13 2LE

**The Committee Members were:**

Mr John Hewitt Chairman  
Mr Frank W J James FRICS  
Mr Robert G Martin

**The Tenant:**

Mrs E I Banks

**The Landlord:**

Mr & Mrs M Halibard

**1. Background**

<b>Previous Rent Registered</b>	:	£ none
<b>Rent proposed by the landlord</b>	:	£390 per month
<b>Rent determined by the rent officer</b>	:	£290 per month
<b>Rent determined by the Committee</b>	:	£280 per month

- 1.1 On 3 June 2004 the landlord of the premises applied to the rent officer for the registration of a fair rent of £390 per month for the premises, pursuant to section 67 of the Act.
- 1.2 The rent was not previously registered, but the rent previously payable by the tenant was said to be £120 per month
- 1.3 On 2 July 2004 the rent officer registered a fair rent of £290 per month with effect from that date.
- 1.4 By letter dated 9 July 2004 the landlord objected to the rent determined by the rent officer, and the matter was referred to the Rent Assessment Committee.

## **2. Inspection**

- 2.1 The Committee inspected the premises on 12 October 2004 and found them to be in poor condition
- 2.2 The following tenant's improvements had been made to the premises:  
Installation of central heating (landlord's boiler)  
Installation of kitchen (now dated)
- 2.3 The following services are provided for the tenant:  
None

## **3. Evidence**

- 3.1 The committee received written representations from the landlord. These were copied to the tenant.
- 3.2 Neither party requested a hearing.

## **4. The Law**

- 4.1 When determining a fair rent the Committee, in accordance with section 70 of the Act, had regard to all of the circumstances including the age, location and state of repair of the premises. 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 tenancyon the rental value of the premises.
- 4.2 In *Spath Holme Limited 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 premises discounted for "scarcity" (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar premises in the wider locality available for letting on similar terms - other than as to rent to that of the regulated tenancy in question, and
  - b) that for the purpose 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 premises.

## **5. Valuation**

- 5.1 In the first instance the Committee determined what rent the landlord could reasonably be expected to achieve for the premises in the open

market if the premises 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 submitted by the landlord and to the Committee's own general knowledge of market rent levels in the Basildon area. Having done so, it concluded that such a likely market rent would be £450 per month.

- 5.2 However, the premises are not in the condition considered usual for a modern market letting at a market rent. Therefore it was necessary to adjust the hypothetical rent of £450 per month to allow for the differences between the condition considered usual for such a letting and the condition of the actual premises as observed by the Committee, (but 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 £102 per month.

- 5.3 The Committee determined that the market rent for the premises, so adjusted was £348 per month.

- 5.4 The Committee found that was substantial scarcity in the locality of the Eastern counties and therefore made a further deduction of about 20% from the market rent to reflect this element.

- 5.5 Calculations:

Open market rent	£450 pcm
Deduction for lack of modern amenities	£102
Open market rent for the premises	£348
Deduction for scarcity	£ 68
	<b>£280 pcm</b>

## **6. The Decision**

- 6.1 The uncapped fair rent determined by the Committee, pursuant to section 70 of the Act, was accordingly £280 per month, inclusive of services.
- 6.2 The Committee considered the Rent Acts (Maximum Fair Rent) Order 1999 and the question whether the fair rent was to be capped in accordance with its provisions. The Committee decided that the Order does not apply, because this is a first registration of a fair rent for the premises.
- 6.3 Accordingly, the sum of £280 per month, inclusive of services will be registered as the fair rent of the premises with effect from 12 October 2004 being the date of the Committee's decision.

  
**Chairman**

John Hewitt  
**Dated** 12 October 2004

**Note:**

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 28 days from the date on which this document is sent to the parties.

## **Eastern Rent Assessment Panel**

**File Ref No: CAM/22UB/F77/2004/0095**

**Rent Assessment Committee:      Extended Reasons for Decision**

### **Rent Act 1977 ("the Act")**

#### **Address of Premises:**

Cliftonville  
Clifton Road  
Basildon, Essex  
SS13 2LE

#### **The Committee Members were:**

Mr John Hewitt      Chairman  
Mr Frank W J James   FRICS  
Mr Robert G Martin

#### **The Tenant:**

Mrs E I Banks

#### **The Landlord:**

Mr & Mrs M Halibard

### **1. Background**

<b>Previous Rent Registered</b>	:	£ none
<b>Rent proposed by the landlord</b>	:	£390 per month
<b>Rent determined by the rent officer</b>	:	£290 per month
<b>Rent determined by the Committee</b>	:	£280 per month

- 1.1 On 3 June 2004 the landlord of the premises applied to the rent officer for the registration of a fair rent of £390 per month for the premises, pursuant to section 67 of the Act.
- 1.2 The rent was not previously registered, but the rent previously payable by the tenant was said to be £120 per month
- 1.3 On 2 July 2004 the rent officer registered a fair rent of £290 per month with effect from that date.
- 1.4 By letter dated 9 July 2004 the landlord objected to the rent determined by the rent officer, and the matter was referred to the Rent Assessment Committee.
- 1.5 Evidently the tenancy was originally granted some 30 or more years ago, and appears now to be a statutory regulated tenancy. The rent register records that the landlord is responsible for repairs and external decorations and that the tenant is responsible for internal decorations. No furniture is provided by the landlord.

- 1.6 Summary reasons for the Committee's decision are dated 12 October 2004. The landlord has requested that extended reasons be given.

## **2. Inspection**

- 2.1 The Committee inspected the premises on 12 October 2004 and found them to be in poor condition. Overall the premises which generally are small had a very tired look. The main bedroom is small for a double bedroom and exhibits signs of damp in the bay window area and to the corner. The small second bedroom also shows signs of damp. The fittings generally are dated and in need of modernisation. The electrical installation, the 13 amp sockets and the wiring is very poor and all in need of replacement to modern standards.  
The rear door and its frame are both rotting extensively, and in need of replacement.  
The garden shed is very dilapidated and the roof is propped up rendering it hardly usable.  
The exterior of the premises are in need of redecoration.  
The roadway, Clifton Gardens is not adopted by the local authority. It is not made up and is full of pot holes, some quite deep.
- 2.2 The following tenant's improvements had been made to the premises:  
Installation of central heating (landlord's boiler)  
Installation of kitchen (now dated)
- 2.3 The following services are provided for the tenant:  
None

## **3. Evidence**

- 3.1 The committee received written representations from the landlord. These were copied to the tenant. The representations made in a letter dated 25 August 2004 from Hair & Son on behalf of the landlord asserted that the rent of £290 set by the rent officer did not represent reasonable value for the premises. They said they had investigated other registered rents in the surrounding areas and generally found them to be higher by, between £200 - £700 per annum. They mentioned unfurnished properties with similar accommodation, without the benefit of double glazing let on an assured shorthold tenancies at up to £450 per month. No addresses were given and evidently the example relied upon was a ground floor flat in a converted detached house with the benefit of a garden, but no outbuildings. It was also asserted that a first floor flat in the same block has registered rent of £301 per month.
- 3.2 Whilst the representations made on behalf of the landlord were noted carefully, the Committee considered them to be of limited value as comparables, firstly because no addresses were given and thus there

was no opportunity to inspect them, even if only externally, and also because they were flats, and not semi-detached bungalows.

3.2 Neither party requested a hearing.

#### 4. The Law

4.1 When determining a fair rent the Committee, in accordance with section 70 of the Act, had regard to all of the circumstances including the age, location and state of repair of the premises. 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 premises.

4.2 In *Spath Holme Limited 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 premises discounted for "scarcity" (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar premises in the wider locality available for letting on similar terms - other than as to rent to that of the regulated tenancy in question, and
- b) that for the purpose 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 premises.

#### 5. Valuation

5.1 In the first instance the Committee determined what rent the landlord could reasonably be expected to achieve for the premises in the open market if the premises were let today in the condition that is considered usual for such an open market letting. It did this by having some, but limited regard to the evidence submitted on behalf of the landlord and to the Committee's own general knowledge and experience of market rent levels in the Basildon area. Having done so, it concluded that such a likely market rent would be £450 per month.

5.2 However, the premises are plainly not in the condition considered usual for a modern market letting at a market rent. Therefore it was necessary to adjust the hypothetical rent of £450 per month to allow for the differences between the condition considered usual for such a letting and the poor condition of the actual premises as observed by the Committee during its careful inspection, (but 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 £102 per month.

- 5.3 The Committee determined that the market rent for the premises, so adjusted was £348 per month.
- 5.4 The Committee found that there was substantial scarcity in the locality of the county of Essex (incorrectly cited as 'Eastern counties' in the summary reasons) and therefore made a further deduction of about 20% from the market rent to reflect this element. The Committee considered that the 'locality' of the county of Essex for scarcity purposes was sufficiently large to eliminate the effect of any localised amenity which might tend to increase, or decrease rent.
- 5.5 The members of the Committee have between them many years experience of the residential housing market and that experience leads the Committee to the view that demand consistently exceeds supply for 2 bedroom bungalows in the locality defined above.
- 5.6 The Committee noted that there were many people on housing waiting lists of local authorities and housing associations in the locality and that waiting such lists were increasing. It concluded that whilst not everyone on those lists would be seeking two bedroom accommodation in the private rented sector, a significant number would
- 5.7 Further, house prices in the area have risen in recent times which could be an indication of increased demand for housing generally in the locality.
- 5.8 Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for two bedroom bungalows in the private sector or the exact number of such properties available. It can only be a judgment based on the years of experience of members of the Committee. That combined experience leads the Committee to the view that demand was substantial for two bedroom bungalows in this locality and thus the scarcity deduction should be assessed at about 20%

5.9 Summary of Calculations:

Open market rent	£450 pcm
Deduction for lack of modern amenities	£102
Open market rent for the premises	£348
Deduction for scarcity	£ 70
	£278 pcm
<b>Say</b>	<b>£280 pcm</b>



**6. The Decision**

- 6.1 The uncapped fair rent determined by the Committee, pursuant to section 70 of the Act, was accordingly £280 per month, inclusive of services.
- 6.2 The Committee considered the Rent Acts (Maximum Fair Rent) Order 1999 and the question whether the fair rent was to be capped in accordance with its provisions. The Committee decided that the Order does not apply, because this is a first registration of a fair rent for the premises.
- 6.3 Accordingly, the sum of £280 per month, inclusive of services will be registered as the fair rent of the premises with effect from 12 October 2004 being the date of the Committee's decision.



John Hewitt

**Chairman**

**Dated:** 10 December 2004

**Note:**

For the purposes of reaching a decision the Committee inspected the premises. Such inspection is not a structural survey. The comments made above are as a result of a casual observation rather than a detailed survey. Neither party should rely on the comments made as a guide to the structural condition of the premises.