

Rent Assessment Committee: Summary reasons for decision.
Rent Act 1977**Address of Premises**

Flat 22, Old Manor Court
40-42 Abbey Road
London
NW8 0AR

The Committee members were

Mr M A Martynski
Mr D L Edge FRICS
Mrs L West

1. Background

On 5 April 2006 the landlord applied to the rent officer for registration of a fair rent of £4085.00 per quarter for the above property.

The rent payable at the time of the application was £11,913.50 per year.

The rent was previously registered on 26 May 2004 with effect from 26 June 2004 at £11,913.50 per year following a determination by the rent officer.

On 25 May 2006 the rent officer registered a fair rent of £12,000.00 per year including £2039.00 in respect of services (variable) with effect from 26 June 2006.

By a letter dated 19 June 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 13 November 2006 and found it to be in fair condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

[Brief description of state of repair here where no RO survey sheet provided].

The following tenant's improvements had been made to the property.

Partial re-fitting of kitchen and some wardrobes cupboards.

The registered rent includes a sum for the services as listed on the rent register.

3. Evidence

The Committee received written representations from the tenant and these were copied to the landlord. No written representations were received from the landlord.

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 Committee's own general knowledge of market rent levels in the area of St John's Wood. Having done so it concluded that such a likely market rent would be £26,000.00 per year. From that figure it was necessary to deduct the amount (adjusted) for services of £1795.00 per year leaving an adjusted market rent of £24,205.00.

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 £24,205.00 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) together with the tenant's repairing obligations under the lease. The Committee considered that this required a deduction of £10,892.00 per year.

This leaves an adjusted market rent for the subject property of £13,313.00 per year.

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 £10,650.00 per year to which £1795.00 per year is to be added in respect of services.

The section 70 fair rent determined by the Committee is below as 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 £12,445.00 per year inclusive of services of £1795.00 per year will be registered as the fair rent with effect from 14 November 2006 being the date of the Committee's decision.

The registered rent is to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)).

Chairman: M A Martynski

Dated: 14 November 2006

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.

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