

Rent Assessment Committee: Summary reasons for decision. Rent Act 1977

Address of Premises

9 Hanover Close
Deal
Kent CT14 7LA

The Committee members were

Mrs H C Bowers MRICS
Mr R Athow

1. Background

On 12th July 2005 the landlord applied to the rent officer for registration of a fair rent of £341.23 per calendar month for the above property.

The rent payable at the time of the application was £322.57 per calendar month.

The rent was previously registered on 9th May 2003 with effect from the same date at £ 280 per calendar month, including variable service charges, following a determination by the rent officer.

On 31st August 2005 the rent officer registered a fair rent of £298 per calendar month including £83.54 in respect of services (variable) with effect from that date.

By a letter dated 21st September 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 was unable to gain access at the appointed time in order to inspect the property internally and therefore made an external inspection only.

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 Deal. Having done so it concluded that such a likely market rent would be £90 per week.

However, it is assumed that 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 £90 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 £5 per week.

The Committee found that there was substantial scarcity in the locality and therefore deducted a further sum of £5.50 from the market rent to reflect this element.

This leaves a net market rent for the subject property of £76.50 per week, inclusive of services.

6. Decision

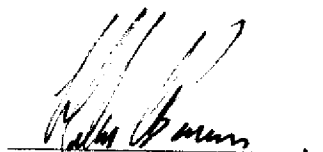
The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £76.50 per week and this equates to £331.50 per calendar month inclusive of £69.91 per week in respect of services.

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 £317.91 per calendar month inclusive of services (Details are provided on the back of the decision form).

Accordingly the sum of £317.91 per calendar month inclusive of services of £69.96 per calendar month will be registered as the fair rent with effect from 11th November 2005 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



Dated

14/11/05.

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 at the Panel Office which must be made within 21 days from the date of issue of this document.