

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

Address of Premises

13 Victoria Road
Godalming
Surrey GU7 1JR

The Committee members were

Mr B Mire FRICS
Mr D Lintott FRICS

1. Background

On the 3rd February 2005 the Landlord applied to the Rent Officer for registration of a fair rent of £138 per week for the above property.

The rent payable at the time of the application was £115 per week which had been registered on the 8th May 2003 and was effective from that date following a determination by a Rent Assessment Committee.

On the 30th March 2005 the Rent Officer registered a fair rent of £124 per week with effect from the 8th May 2005.

By a letter dated the 10th May 2005 the Landlord objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee. This objection was received after the expiry of the statutory time period. A specially constituted Committee had determined to allow the Appeal as only a minor delay had occurred and as there were issues in relation to the setting up of the Rent Officer's systems.

2. Inspection

The Committee inspected the property on 27th July 2005 and found it to be in good condition and as more fully described in the Rent Officer's survey sheet that had been copied to the parties.

In particular, we noted that the dated bathroom was on the ground floor and accessed off a small lobby behind the kitchen. We noted that the flight of stairs to the first floor was steep,

but not as steep as those leading up to the third bedroom in the roof void, accessed only off the second bedroom, which were very difficult to climb.

It was noted that many repairs and improvements of a structural nature had been undertaken over the years by the Tenant, including partial rewiring which had provided additional sockets in various rooms. The original sink and cupboards in the kitchen had been replaced by the Tenant with a range of modern wall and base units with stainless sink unit and drainer. The Tenant had erected a glazed conservatory to the enclosed rear courtyard and had repaired the fences to the rear garden. We noted that polystyrene-ceiling tiles had been fitted in many rooms and the Tenant advised that this was due to the very poor condition of the ceilings beneath. The Tenants had half tiled the bathroom and installed an electric shower.

After the Hearing, having been alerted to a potential comparable at 21 Victoria Road (see later in these Reasons), the Committee observed the premises externally.

3. Evidence

The Committee did not receive written representations from either party.

The Tenant asked for a Hearing, which was scheduled to take place in the subject premises.

After an introduction by the Chairman and a brief explanation of how the Committee was constituted and how it approaches its work, the Tenants set out for the Committee all of the repairs and improvements they had undertaken to the premises over the years. They said that a block of flats and an access road being constructed which would be close to the subject premises would severely affect their rental value. The Committee explained that they have to value the premises as at the date of their inspection and not on any future date. The Tenants were also concerned that their personal circumstances meant they did not want to apply for any State assistance towards their rent. The Committee explained that they were unable to take personal circumstances into account and that there was no stigma attached to seeking assistance. The Tenants asked why, when the Landlords had done nothing to the property, they are entitled to an increase in the rent. The Committee explained the basis of the valuation it had to undertake. When asked what he thought the rent should be, the Tenants answered the same as that set by the Rent Officer, i.e. £124 per week. They also advised us

that 21 Victoria Road was being advertised as available for letting from September at £875 per calendar month and that the premises had been fully refurbished. These were the grounds of his Appeal to the Committee.

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 Committee's own general knowledge of market rent levels in the area of Surrey. Having done so it concluded that such a likely market rent would be £800 per calendar month.

However, the actual property is not in the condition considered usual for a modern letting at a market rent. It had also been substantially repaired in the past by the Tenants. Therefore it was first necessary to adjust that hypothetical rent 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.

The Committee considered that this required a deduction of £215 per calendar month to make allowances for:

Lack of carpets, curtains and white goods	£65
Tenant's past structural repairs/improvements	£45
Tenant's internal decorating liability	£45
Lack of fully fitted modern kitchen	£60

When properties are let in the open market in this area, the landlord generally includes carpets and curtains and white goods. None are included in this letting. We made an allowance to reflect the amount of the reduction in rent that we believe a prospective tenant would expect to negotiate in the open market because of their absence.

In just the same way the original kitchen provided by the Landlord in this property would not of the standard that would be expected of a property in good modern letting condition. We considered that a prospective tenant for this property in the open market would expect to pay less rent because of the inferior nature of these facilities were they not have been renewed by the Tenants.

We also have to make an adjustment to reflect the different obligations about repairs and decorations, between the usual open market assured shorthold tenancy and a regulated tenancy. The assured shorthold tenant normally has no responsibility for repairs and decorations. A regulated tenant is usually responsible for them (subject to the statutory exceptions where they apply) so far as the inside of the property is concerned. Someone taking a tenancy in the open market that imposed those additional obligations upon him would be prepared to pay less by way of rent than he would pay if the landlord was to be responsible for them. The reduction would usually relate to what it would cost to keep the inside of this home in good decorative order and repair. Our adjustment reflects our view of the sort of reduction that would be likely

to be made in the open market to deal with the point and also to compensate the Tenant for the state of the premises had he not undertaken repairs many years ago.

The Committee considered whether or not the likely market rent for the premises had been inflated due to any scarcity of accommodation in the locality and did not consider that there was any substantial scarcity element in this location and accordingly no further deduction was made for scarcity.

This leaves a net market rent for the subject property of £585 per calendar month that equates to £135 per week.

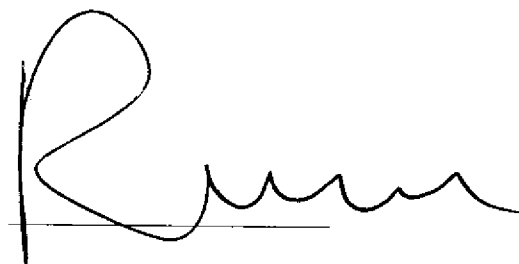
6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £135 per week.

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 £127.50 per week (Details are provided on the back of the decision form). This amount is arrived at by applying to the previous registered rent the increase in the Retail Prices Index plus 5%, from the effective date of the previous registered rent to the Index figure available on the first day of the month in which this Hearing took place.

Accordingly the sum of £127.50 per week will be registered as the fair rent with effect from 27th July 2005 being the date of the Committee's decision.

Chairman

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by several smaller, connected loops and a horizontal line at the end.

Dated

27th July 2005