

Rent Assessment Committee
Extended Reasons for decision.
Rent Act 1977

Address of Premises

14 Park Avenue,
Egham, Surrey,
TW20 8HW

The Committee members were

Mr J.B. Tarling MCMI
Mr. R. A. Potter FRICS
Ms H. Clarke

1. Background

On 18th July 2006 the landlord applied to the rent officer for registration of a fair rent of £98.00 per week for the above property.

The rent payable at the time of the application was £8.37 per week.

On 14th September 2006 the rent officer registered a fair rent of £95.00 per week with effect from 14th September 2006

By a letter dated 20th September 2006 the tenant 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 outside of the property on 9th November 2006 and found it to be in a fair condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties. The property was a semi-detached 3 bedroom house without central heating, comprising two rooms and a kitchen on the ground floor and 3 rooms on the first floor. It was situated in a residential through-road near local shops and with access to public transport. The property had been substantially improved by the tenant over many years. The tenants improvements were listed on the Rent Officers Survey Sheet and comprised an en suite bathroom/wc in bedroom 1, double glazing (at the rear of the property) night storage heaters, a wood burner, internal access to the outside WC, a shower room, conservatory, immersion heater and wash hand-basin in the back bedroom. Clearly at the commencement of the tenancy, the accommodation was fairly basic. The rear garden was a good-size and there was a pedestrian side access direct to the rear garden.

3. Evidence

The tenant had requested a hearing which took place at the Salvation Army Hall, Ashford. The tenant, Mr. Bellamy attended as did the landlords Mr. & Mrs. Gamester. Mr. Bellamy addressed the Committee and said he said although he did not consider the rent of £95.00 per week fixed by the rent officer to be unreasonable, he was on a fixed income and could not afford to pay it. He accepted that he had enjoyed a very low rent of only £8.37 per week, but over the years he had spent many thousands of Pounds of his own money carrying out extensive improvements to the property. He drew attention to the fact that these improvements should be disregarded and the property was originally in a very poor condition. He was unable to say what the property in its original condition might be let for in the current market.

Mr. & Mrs. Gamester addressed the Committee and said that they also did not disagree with the Rent Officer's decision of £95 per week. They had originally asked the rent Officer to register a rent of £98 per week. This had been based on their estimated rent for this property of say £145 per week. They gave evidence that they owned another similar property in the vicinity which had recently been let at £150 per week on the equivalent of an Assured Shorthold Tenancy through the local authority on their Rent Start Scheme which was a discounted rent of £20 per week. This would have given an open market rent of approximately £170 per week for that property.

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 Surrey. The evidence provided by the Landlord was quite helpful as it provided recent open market evidence of what a similar property in the locality had let for. The tenant had not challenged that evidence, nor had he produced any other evidence to contradict it. Having reviewed the written representations and reviewed the evidence available to it, and using its general knowledge and experience of rent levels in this area, the Committee concluded that such a likely market rent would be £170.00 per week. However, the actual property is not in the condition considered usual for a modern letting at a market rent. In addition it was necessary to ignore the considerable improvements which the tenant had made. Therefore it was first necessary to adjust that hypothetical rent of £170.00 per week to allow for the tenants improvements and the differences between the condition considered usual for such a letting and the condition of the actual property as observed by the Committee (and 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 say 45% of the market rent. The Committee's calculations were as follows:

Market rent	£170.00 per week
Deductions:	
To take into account the tenants)	
considerable improvements,) 45% X	
absence of white goods) £170 =	£93.50 per week
and carpets and curtains and)	
difference in repairing obligations)	
 TOTAL	 £93.50 per week
	(Say £95 per week)

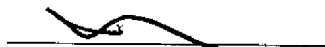
The Rent Officer had registered the rent at £95.00 per week which both parties had told the Committee at the hearing that they did not disagree with. Hence the Committee decided to confirm the Rent Officer's registered rent at £95.00 per week. The Committee did not consider that there was any substantial scarcity element in the area of Surrey and accordingly no further deduction was made for scarcity.

6. Decision

The fair rent determined by the Committee, for the purposes of section 70, was accordingly £95.00 per week.

The fair rent to be confirmed is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because there was not an existing registered fair rent at the time of the application.

Accordingly the sum of £95.00 per week will be registered as the fair rent with effect from 9th November 2006 being the date of the Committee's decision.

Chairman *J.B. Tarling (Signed)*

 J.B. Tarling

Dated *22nd* November 2006