

128 School Road, Moseley, Birmingham, B13 9TS

**THE RENT ASSESSMENT COMMITTEES
(ENGLAND & WALES) REGULATIONS 1971
CERTIFICATE OF CORRECTION**

I hereby certify that due to a clerical error the information which should have been included in section (1) of the Notice of the Rent Assessment Committee Decision, which was signed by me on 1st December 2004 in respect of the fair rent is incorrect and should read: - the fair rent is £55.00 per week (excluding water rates and council tax and including any amounts in paras 3 & 4)

Chairman

Tanner

Date:

13/12/04

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

128 School Road
Moseley
Birmingham
B13 9TS

The Committee members were

Mr de Waal
Mr D Satchwell
Mrs E Everett

1. Background

On 20 July 2004 the landlord applied to the rent officer for registration of a fair rent of £70.00 per week for the above property.

The rent payable at the time of the application was £52.50 per week.

The rent was previously registered on 11 December 2002 with effect from the same date at £52.50 per week following a determination by a rent assessment committee.

On 21 September 2004 the rent officer registered a fair rent of £55.00 per week with effect from that date.

By a letter dated 11 October 2004 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 1 December 2004. 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 landlord and tenant and these were copied to the parties.

A hearing was arranged for 1 December 2004 in Birmingham but neither party attended.

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

It was common ground between the parties that the tenant had installed central heating at her own expense. However, we were unable to inspect the interior of the property and therefore, unable to form an independent view of the condition of the interior of the property and about any other tenant's improvements there might have been.

There was no satisfactory evidence of comparable market rents.

In the circumstance, we were unable to say that the Rent Officer's determination of £55.00 per week was incorrect. We, therefore, confirm the rent of £55.00 per week which is not inconsistent of a market rent of £61.00 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £55.00 per week.

The section 70 fair rent determined by the Committee is below the level 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 £55.00 per week will be confirmed as the fair rent with effect from 1 December 2004 being the date of the Committee's decision.

Chairman Mr de Waal

Dated 1 December 2004

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.

REASONS FOR THE DECISION OF A RENT ASSESSMENT COMMITTEE

Rent Act 1977

Address of Property

128 School Road
Moseley
Birmingham
B13 9TS

Members of Committee:-

Mr J.H.L. de Waal, M.A. (Cantab)
Mr. D. J. Satchwell, F.R.I.C.S
Mrs. E. Everett, J.P.

Landlord

Tycelt Properties Limited
115 Wentworth Road
Harborne
Birmingham
B17 9SU

Tenants

Mrs D.M. Day

Date of decision

1st December 2004

1. Mrs Day became the Tenant of 128 School Road, Moseley, Birmingham, a terraced house constructed at around the turn of the last century ("the Property"), in about 1976.
2. On 11th December 2002 the Rent Assessment Committee registered a rent of £52.50 per week for the Property with effect from that date.

3. On 20th July 2004 the Landlord applied for (re)registration of a fair rent for the Property. The Landlord asked for a rent of £70.00 per week. On 21st September 2004 the Rent Officer registered a fair rent of £55.00 per week with effect from that date.
4. By a letter dated 11th October 2004 the Landlord objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.
5. We received written representations from Mr. T.V. Lycett on behalf of the Landlord dated 30th October 2004 and from Mr Ken Carter on behalf of the Tenant dated 20th October 2004.
6. The relevant parts of Mr. Lycett's letter were these:

"Market values

We have contacted three estate agents within the location of our property who provide a letting service. Without exception they all confirmed that an average reasonable market rent for a property with similar facilities to the subject property command a rent of £525 to £600 and in one case £675 PCM. Robert Aston and Co Ltd, Robert Oulsnam Estate Agents and Chamberlains Estate Agents provided this information.

Availability

We further understand from the agents that there is a large demand for this type of property due to the uncertain nature of the property market in general and none of the agents had this type of property to offer at present.

Improvements

We are aware that Mrs Day has in the past carried out many repairs and improvements at her own cost including the installation of central heating and

more recently, with the help of external funding, has installed a ground floor bedroom.

However during August 2003, at our expense, the original timber windows to the property were renewed with new uPVC double glazed windows as an improvement the cost being in the order of £2000. This we feel should have a bearing on the new rent.”

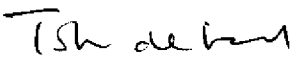
7. The relevant parts of Mr Carter’s letter were these:

“... the property as rented was very inadequate and Mrs Day has spent considerable amounts of money on such things as central heating (recently a new boiler), downstairs bathroom, built in kitchen and bedroom furniture which have made the place habitable.... There are other things that make this house less desirable than others in the neighbourhood. For example there is no car parking space and the road is narrow and much frequented.”
8. The Committee visited the Property on 1st December 2004. We were able to inspect the exterior of the Property from the front but were unable to inspect the rear of the Property or to gain entry to inspect the interior of the Property. In inspecting the front elevation of the Property we were able to see the new uPVC windows that Mr Lycett referred to in his letter.
9. A hearing had been arranged for 1st December at the request of the Tenant but no one attended from either party.
10. In drawing conclusions about the age, location and state of repair of the Property we confined ourselves to the following facts:
 - (a) The description of the Property in the Rent Register;
 - (b) What we ourselves could see from our exterior inspection; and
 - (c) Our knowledge of the location of the Property.

11. The Property is a terraced house built in about 1900 comprising two living rooms on the ground floor together with a kitchen, lobby area and store cupboard. On the first floor there are two bedrooms, a bathroom, a landing and a store cupboard. There is a garden and storeroom to the rear. There is no garage or off-road parking.
12. In drawing conclusions about any relevant tenant's improvements to the Property we confined ourselves to those facts upon which the Landlord and Tenant were in agreement. We considered that the only relevant tenant's improvement that we could properly take into account was the installation of central heating.
13. We considered the correct approach to valuation of the Property to be that explained 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. In Curtis the Court of Appeal emphasised 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 that for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables.
14. We did not consider that there was satisfactory or sufficient evidence of comparable market rents to enable us to determine whether the rent requested by the Landlord (£70.00 per week) was a fair market rent or not.
15. We did however note that the Landlord had said that there was a large demand for this type of Property. We determined that there was scarcity in the locality

by which for this purpose we meant the area of Birmingham. We considered that an appropriate discount for scarcity would be 10%.

16. In the circumstances we were unable to say that the Rent Officer's determination of £55.00 per week was incorrect. We therefore confirmed the rent of £55.00 per week which is not inconsistent with a market rent of £61.00 per week.
17. The Maximum Fair Rent payable in respect of the Property calculated in accordance with the Maximum Fair Rent Order 1999 is £58.00 per week, thus the fair rent was not limited by the provisions of the Maximum Fair Rent Order.
18. Accordingly we determined a fair rent of £55.00 per week for the Property effective from 1st December 2004.

SIGNED.....
John de Waal, Chairman

DATED.....10/1/05.....