

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

**Address of Premises**

45 Marshall Street  
Folkestone  
Kent  
CT19 6ES

**The Committee members were**

Mr I R Mohabir LLB (Hons)  
Mr R Athow FRICS MIRPM  
Ms L Farrier

**1. Background**

On 2<sup>nd</sup> March 2005 the landlord applied to the rent officer for registration of a fair rent of £350.00 per Calendar Month for the above property.

The rent payable at the time of the application was £260.00 per Calendar Month.

The rent was previously registered on 2<sup>nd</sup> May 2003 with effect from the same date at £60.00 per week following a determination by the rent officer.

On 1<sup>st</sup> April 2005 the rent officer registered a fair rent of £66.00 per week with effect from 2<sup>nd</sup> May 2005.

By a letter dated 14<sup>th</sup> April 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 inspected the property on 30<sup>th</sup> June 2005 and found it to be in fair to poor condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

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

1. Installation of water heater.
2. Installation of electric storage heaters throughout the property.
3. Installation of modern electrical points & switches throughout the property.
4. Landscaping of garden.

### **3. Evidence**

The Committee received written representations from the landlord and/tenant and these were copied to the parties.

A hearing was held on 30<sup>th</sup> June 2005 in Folkestone at which oral representations were made on behalf of the landlord. The tenant was not present or represented.

### **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 East Kent. Having done so it concluded that such a likely market rent would be £115.00 per week.

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 £115.00 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 £50.00 per week to include the Tenants improvements.

The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity.

This leaves a net market rent for the subject property of £65.00 per week.

## 6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £65.00 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 £65.00 per week will be registered as the fair rent with effect from 30<sup>th</sup> June 2005 being the date of the Committee's decision.**

Chairman     Mr I R Mohabir LLB (Hons)

Dated            30<sup>th</sup> June 2005

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.