

Rent Assessment Committee: Reasons for decision.

Rent Act 1977

Address of Premises

First Floor Flat
12 Grove Road
Worthing
West Sussex
BN14 9DG

The Committee members were

Mr D Agnew LLB LLM
Mr D Lintott FRICS
Ms J K Morris

1. Background

On 26th June 2006 the landlord applied to the rent officer for registration of a fair rent of £475 per month for the above property.

The rent payable at the time of the application was £388 per month.

The rent was previously registered on 18th April 2006 with effect from 8th May 2006 at £388 per month following a determination by the rent officer.

On 3rd October 2006 the rent officer registered a fair rent of £413 per month with effect from that date.

By a letter dated 4th October 2006 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 15th December 2006 and found it to be in good condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

3. Evidence

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

A hearing was held on 15th December 2006 in Worthing at which oral representations were made by the landlord. The tenants were 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 Worthing. Having done so it concluded that such a likely market rent would be £650 per month.

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 £650 per month 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 £211 per month.

These deductions were as follows:-

	£ per month
Lack of carpets, curtains and white goods -	45.00
Tenant's decorating liability -	36.00
Lack of central heating -	65.00
Very dated kitchen/bathroom -	65.00
	=====
	£211.00

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 £439 per month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £439 per month.

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 £415.50 per month.

The committee did not consider that the works carried out by the landlord of separating the two flats in the premises to form two self-contained units had increased the rent so that it exceeded the previously registered rent by at least 15%. Rent-capping is therefore not disapplied.

Accordingly the sum of £415.50 per month will be registered as the fair rent with effect from 15th December 2006 being the date of the Committee's decision.

Chairman

Mr D Agnew LLB LLM

Dated

15th December 2006