

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

Address of Premises

44 Gwinear Lane
Gwinear
Hayle
Cornwall
TR27 5LA

The Committee members were

R Batho MA BSc LLB FRICS FCI Arb
E R Distin FRICS
Dr C Gronow

1. Background

On 19th July 2005 the landlord applied to the rent officer for registration of a fair rent of £380.00 per calendar month for the above property. The rent was previously registered at £345.00 per calendar month following a determination by the rent officer.

On 11th August 2005 the rent officer registered a fair rent of £389.00 per calendar month with effect from that date. By a letter dated 11th August 2005 the tenant asked for the matter to be referred to a rent assessment committee.

2. Inspection

The Committee inspected the property on 17th November 2005 and found it to be in fair condition.

The following tenant's improvements had been made to the property: Installation of an oil fired stove in the living room; laying timber laminate flooring in both living rooms; and the provision of new kitchen units. The committee also noted that works had been carried out by the County Council to prevent flooding of the property, apparently at the tenant's instigation.

3. Evidence

No written representation were received and neither party requested a hearing at which oral representations could be made.

4. The Law

When determining a fair rent the Committee, in accordance with the Rent Act 1977, s.70, had regard to all the circumstances including the age, location and state of repair of the property and disregarded the effect of any relevant tenant's improvements 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 of the rent, if any, that is attributable to there being a shortage of similar properties in the locality available for letting on similar terms) and (b) that assured tenancy (market) rents are usually appropriate market rent comparables.

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 Committee's own general knowledge of market rent levels in the area of West Cornwall. Having done so it concluded that such a likely market rent would be £600.00 per calendar month.

However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore it was necessary to adjust that hypothetical rent of £600.00 per calendar 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 £110.00 per calendar month.

Furthermore, to allow for the tenant's improvements, as listed above, it was necessary to make a further deduction of £30.00 per calendar month.

A further adjustment was made to allow for the differences in repairing obligations between the comparable properties and the subject property the Committee arrived at a fair rent of £425.00 per month..

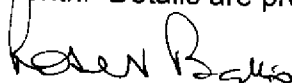
The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity.

5. Decision

The fair rent determined by the Committee is accordingly £425.00 per month. That rent will be registered with effect from 17th November 2005 being the date of the Committee's decision.

However, that rent is capped by the Rent Acts (Maximum Fair Rent) Order 1999 and the amount to be registered/confirmed as the fair rent is accordingly limited to £390.50 per month. Details are provided on the back of the decision form.

Signed



Dated

18th November 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 which must be made within 21 days from the date of issue of this document.