

**Rent Assessment Committee: Extended Reasons for Decision.
Rent Act 1977.**

Address of Premises.

2 Southside
26 Alexandra Road
Clevedon BS21 7QH.

The Committee members were

Mr R L Sansbury (Chairman)
Mr M Ayres FRICS

1. Background.

The tenancy commenced as long ago as August 1945.

On 28 February 2005 the landlord applied to the Rent Officer for registration of a fair rent of £400 per month for the above property.

The rent payable at the time of the application was £341 per month

The rent was previously registered on 17 June 2003 with effect from 9 June 2003 at £341 per month following a determination by the Rent Assessment Committee.

On 25 May 2005 the Rent Officer registered a fair rent of £373 per month with effect from that date.

By a letter dated 8 June 2005 the landlord objected to the rent registered by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection.

The Committee inspected the property on 26 July 2005 in the presence of the tenant, Mr Hartnoll. The landlord company was not represented at the inspection.

The Committee found the property to be a three-bedroomed, self-contained maisonette of stone construction under a pitched tiled roof with wood sash casement windows. It was in reasonable 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:

Those set out in paragraph 2 of the Summary Reasons for Decision of the Rent Assessment Committee dated 25 June 2003 ("the 2003 Reasons"). A copy of the 2003 Reasons is attached to these Reasons.

The tenant confirmed that he had not carried out any further improvements since the 2003 registration by the Rent Assessment Committee. As to the electrical installation, he said that he had originally put in both the power and the lighting circuits but the landlord subsequently renewed the lighting circuit.

The white goods and the floor coverings had been supplied by the tenant. There was no central heating system supplied by the landlord.

3. Evidence.

The Committee received written representations on behalf of the landlord company and copies were supplied to the tenant. These representations took the form of:-

(a) A letter from Mr Peter C Mann dated 8 June 2005 giving notice of appeal which states

"Our grounds are that the committee who dealt with the previous appeal misdirected themselves. Section 70 (3) of the Rent Act 1977 clearly states that 'any improvements carried out by the tenant must be disregarded'. In para 17 the committee deducted £120 in total for improvements.

(b) A further letter from Mr Mann dated 13 June 2005 in which he again argues that the previous committee misdirected itself in law stating:

"In para 4 the Committee stated clearly that it disregarded the effect of any relevant tenant's improvements. In para 5 it allowed a deduction of £100 per calendar month for such improvements even though the electrics have been renewed by the landlord"

No written representations were received from the tenant.

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, section 70, has regard to all the circumstances including the age, location and state of repair of the property. It also disregards 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 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. The Committee's findings.

- (a) The Committee accepted the tenant's evidence about the electrical installation .
- (b) As to the landlord's submissions of law to the effect that the Committee in 2003 had misdirected itself, the current Committee decided that:-
- (c)
 - 1) It had no power to vary the Decision of the 2003 Committee
 - 2) Even if it had such power it would not be minded to exercise it because a) two years had elapsed since the decision was made and b) the 2003 Committee did not misdirect itself. The 2003 Reasons make it clear that the then Committee did disregard the tenant's improvements in that it correctly valued the rent as if those improvements had never been made; hence the deduction of £100 per month referred to in the 2003 Reasons.

6 Valuation.

Having regard to those findings and the law set out in paragraph 4 above, 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. In the absence of valuation evidence from the parties the Committee relied on its own knowledge of market rent levels in the area of Clevedon and South Bristol.. Having done so it concluded that such a likely market rent would be £650 per month.

However, as appears from paragraph 2 above, the actual property is not in the condition considered usual for a modern letting at a market rent; in particular the white goods and the floor coverings have been supplied by the tenant and there is no central heating. . 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. The Committee considered that this required a deduction of £80 per month.

Furthermore to allow for the tenants improvements (referred to above) it was necessary to make a further deduction of £100 per month.

The Committee did not consider that there was any substantial scarcity in the locality and therefore made no deduction in that respect. .

This leaves a net market rent for the subject property of £470 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 £375.50 per month. (Details are provided on the back of the decision form).

Accordingly the sum of £375.50 per month will be registered as the fair rent with effect from 26 July 2005 being the date of the Committee's decision.

Chairman

Paul Landrey

Dated

31 August

2005.