

Southern Rent Assessment Panel

File Ref No. 0142/06

**Rent Assessment Committee: Reasons for decision.
Rent Act 1977**



Address of Premises

35a Springfield Road
St Leonards on Sea
East Sussex
TN38 0TY

The Committee members were

Mr R T A Wilson LLB (Chair)
Mr B H R Simms FRICS (Valuer)
Ms J Dalal (Lay member)

BACKGROUND

1. By an undated letter but received on the 24th July 2006 the tenant applied to the rent officer for registration of a fair rent of £100 per month for the above property. We believe that the tenant meant to state £100 per week but unfortunately the tenant's representative at the hearing was unable to comment.
2. The rent payable at the time of the application was £75 per week inclusive of services.
3. On 8th September 2006 the rent officer registered a fair rent of £425 per month with effect from that date. The Rent Register does not note a separate figure representing an amount attributable to services.
4. By a letter dated 2nd October 2006 the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

INSPECTION

5. The Committee inspected the property on 4th December 2006 and found it to be in fair condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

6. The property comprises a self-contained flat formed by conversion arranged on the first and second floors of the building. The building is one of a pair of semi-detached houses with accommodation in the basement and three upper floors on the North side of Springfield Road, a busy street on the edge of St Leonards. The building has cement-rendered elevations under a part pitched slate roof and part flat roof. There are shopping and transport amenities nearby with buses and shops in the London Road.
7. The accommodation comprises, on the first floor: an entrance hall, dining area leading to the living room with a kitchen leading off. There is also a bathroom with W.C. on this floor. Stairs lead from the hall to the second floor which has a landing and two front bedrooms. The rear bedroom on this floor was originally a large bedroom but is now divided into two smaller areas. Rooms on the Second floor are built within the roof space and have dormer windows or roof lights with sloping ceilings.

EVIDENCE AND THE HEARING

8. The Committee received written representations from the landlord and tenant and these were copied to the parties.
9. A hearing was held on 4th December 2006 at which oral representations were made on behalf of the landlord and tenant.

10. Mr Holden, solicitor on behalf of the landlord applied for an adjournment firstly on the basis that his client had not seen all the written evidence presented by the tenant and secondly because his client had now applied to the County Court for a declaration pursuant to Section 141 of the Rent Act 1977. This application would determine the type of tenancy which covered the subject property. The tenant's representative objected to the application for an adjournment on the grounds that the tenant was entitled to certainty by having the application determined today. The Tribunal retired to consider the request.

11. On reconvening the hearing the Committee granted an adjournment of two hours to allow the landlord the opportunity to consider the unseen evidence. The Committee declined to grant a longer adjournment pending the outcome of the County Court

Case. The Committee considered that neither party would be prejudiced by the hearing proceeding today. If the County Court concluded that the Tenancy was a regulated one then the decision of the Committee would be binding on the parties. Alternatively if the County Court concluded that the tenancy is an assured tenancy then either party could proceed with a fresh application to determine the market rent.

12. The Committee also had regard to the fact that the landlord's application to the County Court had been made some time ago, yet the application to adjourn was only made on the day of the hearing after the expense of convening the Committee had been incurred, and the further expense of the inspection and the booking of the venue. Had the application for an adjournment been made earlier the Committee may have looked upon it more favourably. Whatever the outcome of the County Court proceedings, the Committee has been appointed to hear this case and shall proceed accordingly.
13. Mr Holden then called his client to give evidence. The summary of his evidence was that 3 bed roomed flats in the locality commanded on average a return of £560 per month. Therefore the starting point for valuing the rent in this case should be £560 and not the lesser range cited by the Rent Officer.
14. In addition the terms of the tenancy obliged the landlord to provide water, gas and electricity. The landlord estimated that the cost of providing these services was on average £25 per week and this sum was incorrectly omitted from the register.
15. The landlord also contended that the property was in a good state of repair and decoration, and therefore it was not appropriate to make anything but the smallest of deductions from the headline rental figure of £560 per month plus £108 per month for services.
16. Furthermore the landlord disputed the Rent Officers decision of the description of the flat as having only three bedrooms as the second floor had been converted by the landlord into four rooms each with its own window and therefore there were four bedrooms and the flat should be valued accordingly.

17. In conclusion the appropriate fair rent for the property should be no less than £600 including services
18. The tenant's representative did not challenge any of the landlords evidence except to say that the landlord had erected a simple partition in the third bedroom on the second floor which had been her bedroom, to make one reasonable size bedroom into one small bedroom and a further tiny room which would not be large enough to use as a fourth bedroom.

THE LAW

19. 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).

VALUATION

20. With the benefit of our collective knowledge and experience of open market rents generally in the area of St. Leonard's - on - Sea and Hastings, we concluded that the rent for the subject property, let on an assured shorthold tenancy in the open market, in good modern letting condition, would be £560 per calendar month. By "good modern letting condition", we mean what a prospective tenant would expect to find in this locality in a property available to be let on the open market. The property would be in good structural and decorative order both inside and out. It would have central heating, hot water, a modern well fitted kitchen and a modern well fitted bathroom, and would have carpets and curtains. It would also have "white goods" such as a cooker and fridge all supplied by the landlord. Because the comparable figures available to us are all for properties let on assured shorthold tenancies in that condition and for the reasons explained in paragraph 19 above, we have to start from the evidence that such lettings provide.
21. The adjustments below take account of the differences between such a property and the one that we are considering, and allow for the effect that those differences would have on the rent that the property would fetch in the open market. The Committee considered that the following deductions were required:-

Optimum Market Rent

£560.00 pcm

Less Deductions for the following:-

Old electrics	10.00	
Lack of central heating	50.00 (installed at no cost to landlord or tenant)	
Lack of white goods	30.00	
Lack of carpets & curtains	40.00	
Lack of modern bathroom	20.00 (installed at no cost to landlord or tenant)	
Lack of a modern kitchen	30.00	
Increased repairing liability	<u>20.00</u>	<u>200.00</u>

Adjusted Rent

£360.00 pcm

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

23. This leaves a net market rent for the subject property of £360 per month to which the sum of £85 in respect of services should be added. The £85 is our estimate of the value of the supply of gas, electricity and water provided by the landlord.

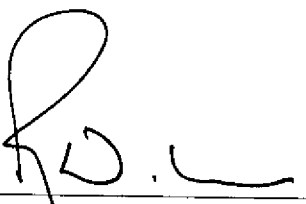
DECISION

24. The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £445 per month inclusive of £85 per month in respect of non variable services.

25. The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because there was not an existing registered fair rent at the time of the application.

26. Accordingly the sum of £445 per month inclusive of non variable services of £85 per month will be registered as the fair rent with effect from 4th December 2006 being the date of the Committee's decision.

Chairman


R T A Wilson LLB

Dated

21st December 2006