

EASTERN RENT ASSESSMENT PANEL

Statement of Reasons for the Decision by a Committee of the Panel following an Inspection
carried out on 23rd February 2004

Rent Assessment Committee

Mrs H C Bowers MRICS (Chairman)

Mrs S Redmond BSc(Econ) MRICS

Mr A Kapur

Case No.: CAM/00MB/F77/2004/1

Re: May Tree Cottage, 74 Station Road, South Leigh, Oxfordshire.

Landlord: Mr P Bury

Tenant: Mr P James

Introduction

1. The property the subject of this objection is a semi-detached house that is let by Mr Bury ("the landlord") to Mr James ("the tenant") on an unfurnished regulated tenancy governed by the Rent Act 1977 ("the Act"). Consequently the rent payable by the tenant is a fair rent as defined in section 70 of the Act and it falls to be reviewed not more than once every two years. In an application made by the landlord's agent dated 12th September 2003, a rent of £600 per calendar month was proposed. On 14th November 2003 the Rent Officer determined a rent of £183 per calendar month in respect of the subject property and registered it so that the rent was effective from that date. The uncapped rent was £415 per calendar month. Prior to the current registration, the rent was registered at £19.50 per week with effect from 26th March 1984. In a letter from Bradford and Bingley, agents acting for the landlord, dated 12th December 2003 the landlord objected to the current registration and so the matter came before the Committee.

The Statutory Provisions

2. Attached to this Statement of Reasons is a resume of the law as applied by the Committee. It forms an integral part of the Reasons of the Committee.

Inspection

3. We made an inspection of the property on the 23rd February 2004 in the company of the tenant. There was no representative from the landlord. The subject property is a semi-detached house c

4.

Representations and Hearing

4. The parties indicated that they wished to have a formal hearing. At the request of the tenant the hearing was held at the subject property on 23rd February 2004. The tenant was in attendance. There was no representative from the landlord at the hearing. Representations were received from Bradford & Bingley and these were copied to the tenant. No written representations were received from the tenant.

The Tenant's Case

5. Mr James explained the rental history of the property and the fact that despite a registration of the rent in 1984, there was an agreement in 1992 to increase the rent to £175. This rent was not registered. Mr James confirmed to the committee some details regarding the neighbouring properties that were quoted by the landlord's agent as being comparable to the subject house. Regarding 73 Station Road it was stated that the property had central heating and that the kitchen and bathroom were probably renewed in the 1980's. There had been several tenants of this house and the current tenants took the property just under a year ago. 72 Station Road also has a central heating and a relatively new kitchen. The house was redecorated six months previously, just prior to the occupation of the current tenant's. Finally, Mr James confirmed that the garage had been a gift from the previous landlord in the 1980's.

The Landlord's Case

6. In their written representations Bradford & Bingley explained that whilst the previously registered rent from 1984 was £19.50 per week, that the passing rent on the property was £175 per calendar month, fixed at some time before 1999. It was stated that the capped rent that was registered by the Rent Officer was based on the 1984 registered rent and not the rent fixed prior to 1999.
7. It was suggested by the agents, that the tenant had been compensated for any improvements carried out to the property by means of a reduced rent over the years and the fact that there had been only one rent increase since 1984.
8. We were provided with a schedule of comparable properties, this is reproduced below:

<u>Property Address</u>	<u>Property Type</u>	<u>Tenancy Type</u>	<u>Rent per Month</u>
70 Station Rd South Leigh	3 Bed House	Statutory	£370
71 Station Rd South Leigh	3 Bed House	Statutory	£370
1 Farmhouse Close Stanton Harcourt	3 Bed House	Statutory	£466
11 Farmhouse Close Stanton Harcourt	1 Bed House	AST	£475
51 Blackditch Stanton Harcourt	3 Bed House	AST	£595
72 Station Rd South Leigh	3 Bed House	AST	£650
73 Station Rd South Leigh	3 Bed House	AST	£695

Consideration

6. When considering the rental of a property under the provisions of the Rent Act 1977 we are obliged to ignore any personal circumstances when arriving at rental values. Likewise we are required to ascertain the market rent from which various deductions may be made to reflect the circumstances of the tenancy under consideration.

7. In the judgement of the Court of Appeal in the case of *Curtis v London Rent Assessment Committee* {30 HLR 733} the Court held that the starting point for the determination of the fair rent must be the open market rent appropriate for the property. A fair rent is the open market rent adjusted for the statutory disregards and for scarcity. As to the scarcity factor, in the case of *Queensway Housing Association Limited v Chiltern, Thames and Eastern Rent Assessment Committee*, the Court held that the Committee must consider a really large area that gives an appreciation of the trends of Scarcity and their consequences, in determining whether the factor

is applicable in the instant case. In the light of the recent House of Lords decision, the Committee also has to consider the application of the maximum fair rent under the capping formula.

8. In the first instance we must look at the level of rents in the open market (Assured Shorthold Tenancies (AST)) as these provide us with the closest guidance as to the level of fair rents once certain deductions have been made and these are considered below. The use of rental information from Statutory Tenancies is not useful as the rent may reflect many individual factors that is not present in open market lettings. We were provided with some comparable information of open market lettings in the area, which was very useful. Using this information together with the Committee's own knowledge of the local market and having given consideration to the comparable referred to above and taking in to account the accommodation we saw during the inspection, we are satisfied that the subject house would let for £695 per calendar month.
9. However, properties let in the open market are generally in a good, modern letting condition. By "good modern letting condition" we mean what a prospective tenant would expect to find. The property would be in good structural and decorative order both inside and out. It would be carpeted and might have curtains. It might also have some "white goods" such as a cooker and a washing machine. That is what people in this locality expect of a letting on the open market.
10. The adjustments we have mentioned are to reflect the differences between such a property and the one we are considering. They are adjustments to allow for the effect that those differences would have on the rent it would fetch in the open market.
11. No carpets, curtains nor white goods are included in this letting. We have made an adjustment of £105 per calendar month to allow for the difference, being the amount of the reduction in rent that we believe a prospective tenant would expect to receive in the open market to reflect these issues.
12. The kitchen and the bathroom of this house as originally let would not be up to the standard one would normally expect for a property letting at this level of rent. The tenant has carried out some refurbishment of these facilities. The landlord's agents suggest that the lack of rent review over the years has compensated the tenant for these improvements. We disagree and in accordance

with the provisions of Section 70 of the Rent Act 1977 we are obliged disregard the value of the tenant's improvements when determining the rent. Accordingly we have made a reduction of £70 per calendar month for the kitchen and bathroom. Likewise a prospective tenant would normally expect a property to have full central heating. We have adjusted the rent by £70 per calendar month to reflect this deficiency.

13. We need to consider whether there should be any allowance for the effects of scarcity. We considered the market in Oxfordshire for this purpose. That seems to us to be the area in which conditions of supply and demand would be likely to affect the rent for the property with which we are concerned and from which prospective tenants are likely to be drawn. It seems to us to be the extent of the really large area that the Courts have described as being appropriate to this purpose. We also took into account our collective knowledge and experience of the market in that area. We bore in mind that we must consider the effect that scarcity might have on the net rent after the adjustments. We have come to the conclusion that whilst we had no specific representations before us, there is a general imbalance of supply and demand within the locality we have described and therefore we have made an allowance of 10% for scarcity.

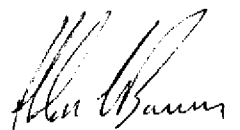
14. We therefore produced the following calculation on a calendar monthly basis:

		£
Open Market Rent:		695
Less allowances for:		
Lack of Carpets, Curtains and White Goods	105	
Kitchen/Bathroom	70	
Lack of full Central Heating	<u>70</u>	
	245	<u>245</u>
		450
Less Scarcity at 10%		<u>45</u>
		£405
Fair Rent	£405 per calendar month	

15. We therefore determined a rent for the subject property of £405 per calendar month. However, the fair rent of £405 per calendar month is capped by the Rents Acts (Maximum Fair Rent) Order 1999. Whilst the rent has been increased in 1992, this figure was not registered by the Rent Officer and accordingly we must ignore this rent and use the previously registered rent

from 1984 as the base figure for the capping calculation. Therefore, the amount to be registered as the fair rent is limited to **£184.50 per calendar month**. Details are provided with this decision form. This rent will be registered with effect from **23rd February 2004** being the date of the Committee's decision.

Chairman



Date:-

8/3/04