

**Rent Assessment Committee: Summary reasons for decision.
Housing Act 1988 – Section 22**

Address of Premises

271A Lady Margaret Road
Southall
UB1 2PX

The Committee members were

Mr S Shaw
Mrs J E Davies FRICS
Miss R I Emblin JP

1. Background

On 20 January 2005 the tenant of the above property applied to the Committee for a determination under section 22 of the Housing Act 1988.

The tenancy commenced on 24 August 2004 for a term of 1 year. The tenancy is an assured shorthold tenancy that commenced on 24 August 2004.

The current rent is £750 per month.

2. Inspection

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

3. Evidence

The committee received written representations from the landlord and/tenant and these were copied to the other party.

A hearing was held at 10 Alfred Place, WC1, on 17 March 2005 at which oral representations were made on behalf of the landlord and by the tenant.

4. The law

In accordance with the terms of section 22(3) Housing Act 1988 the Committee may make a determination of the rent at which it considers that the subject property might reasonably be expected to be let under the assured shorthold tenancy. However the Committee may not make such a determination unless it considers -

- (a) that there is a sufficient number of similar dwellings-houses in the locality let on assured tenancies (whether shorthold or not); and
- (b) that the rent payable under the assured shorthold tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

Section 22(5) provides that for the purposes of this section “rent” includes amongst other things any sums payable to the landlord by the tenant in respect of council tax.²

Section 22(5) provides that for the purposes of section 22 “rent” does not include a “service charge” within the meaning of section 18 Landlord and Tenant Act 1985 (i.e. where the service charge payable by the tenant is variable from time to time according to the relevant costs). However it does include a “fixed” service charge.

5. The decision

The Committee concluded that whilst the requirement in section 22(3)(a) is satisfied the requirement in section 22(3)(b) is not satisfied and therefore the Committee was not able to make a determination.

Chairman S Shaw

Dated 17 March 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 28 days from the date of issue of this document.

¹ Since 28 February 1997 an assured shorthold tenancy can be fixed term or periodic from the outset. If a fixed term tenancy of less than six months is followed by a statutory periodic tenancy a section 22 application can still be made provided six months have not passed since the original fixed term commenced. Thus all options are catered for by this draft.

² This will be relevant in the case of houses in multiple occupation where liability for the council tax falls on the landlord but is (proportionately) passed on to the tenant.