

Southern Rent Assessment Panel File Ref No.

CHI/45UE/F77/200 5/0066

**Rent Assessment Committee: full reasons for decision.
Rent Act 1977**

Address of Premises

6 Southwark Close Crawley West Sussex RH11 9LY
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The Committee members were

Ms J A Talbot MA Cantab Mr M Marshall FRICS Ms J Dalal
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1. Background

On 28 January 2005 the landlord applied to the rent officer for registration of a fair rent of £91.00 per week for the above property. The rent payable at the time of the application was £77.80 per week including £2.54 in respect of services (variable).

The rent was previously registered on 20 May 2003 with effect from the same date at £82.50 per week following a determination by a rent assessment committee.

On 16 March 2005 the rent officer registered a fair rent of £90.50 per week, including £2.54 in respect of services/(variable), with effect from 20 May 2005. By a letter dated 28 March 2005 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

The tenancy is a weekly periodic tenancy and the tenant took the tenancy by way of assignment from his parents, the former tenants, on 29/09/2003.

2. Inspection

The Committee inspected the property on 19 May 2005 and found it to be in good condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The Committee was unable to gain access at the appointed time in order to inspect the property internally and therefore made an external inspection only. The Committee saw a compact, two-storey town house, built in 1976, in a terrace of four similar units, situated in a quiet road in an estate of similar properties. The property was of brick construction, with evidence of some re-pointing work, UPVC style windows and doors, and gardens to front and rear. From a side view, the rear garden appeared to be of a reasonable size.

From the rent officer's survey, the property has part central heating on the ground floor. The former tenants installed radiators to the landing and bathroom but it appears there is no central heating in the bedrooms.

The registered rent includes a sum for the services as listed on the rent register.

3. Evidence

The Committee received written representations from the landlord and tenant and these were copied to the parties. Neither party requested a hearing at which oral representations could be made.

As the Committee was unable to gain access, it did not see the interior, including the kitchen and bathroom, to which the tenant referred in his letters. However, it noted the rent officer's description of the internal state of the property as "good". The rent officer's survey stated that there was a fitted kitchen with cupboards, worktops and stainless steel sink unit, and bathroom with enclosed bath, wash basin and low level WC. The survey further listed tenant's improvements as at 7 July 1998 as "bannisters, fitted units to bedroom 3, radiators to landing and bath/WC, fitted units in kitchen".

The Committee further noted the tenant's comments that his parents had installed some kitchen fittings, and the landlord's comments that the tenant's parents had declined an offer for the kitchen to be replaced, as they were happy with their existing units.

4. The law

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).

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 Crawley, West Sussex. Having done so it concluded that such a likely market rent would be £127.00 per week.

However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £127.00 per week to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as assessed 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 total deduction of £16.00 per week, calculated as follows:

Gross market rent		£127.00 per week
Deductions;		
Lack of white goods	£ 5.00	
Part central heating	£ 7.00	
Kitchen	£ 2.00	
Bathroom	<u>£ 2.00</u>	
Total deductions		£ 16.00

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

This leaves a net market rent for the subject property of £111.00 per week which includes the sum of £2.54 in respect of services.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £111.00 per week, inclusive of £2.54 per week in respect of services.

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 £91.00 per week inclusive of services (Details are provided on the back of the decision form).

Accordingly the sum of £91.00 per week inclusive of services of £2.54 per week will be registered as the fair rent with effect from 19 May 2005 being the date of the Committee's decision.

Note: The Committee notes, from the landlord's representations, that the landlord, being a Housing Association, has to comply with the Government Rent Restructuring Policy, which provides that its rents can only be increased by a specific formula [no more than $RPI + \frac{1}{2}\%$ (3.6%) + £2.00]. Hence, despite the fair rent being registered by the Committee at £91.00 per week, the rent to be charged to the tenant, as stated by the landlord, is £82.83 per week.

Chairman

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Dated

16 July 05

This document contains a full statement summary of the reasons for the Rent Assessment Committee's decision.