

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

**Address of Premises**

37 Heath Grove  
Barming  
Maidstone  
Kent ME 16 9AS

**The Committee members were**

Mr. R. Norman (Chairman)  
Mr. B.H.R. Simms FRICS MCI Arb

**1. Background**

On 27th March 2006 the landlord applied to the rent officer for registration of a fair rent of £125 per week for the above property.

The rent payable at the time of the application was £110 per week.

The rent was previously registered on 3rd March 2004 with effect from that date at £110 per week following a determination by a rent assessment committee.

On 23rd May 2006 the rent officer registered a fair rent of £116 per week with effect from that date.

By a letter dated 15th June 2006 the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

**2. Inspection**

The Committee inspected the property on 6th August 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.

The following tenant's improvements had been made to the property namely the installation of a new kitchen.

### **3. Evidence**

The Committee received written representations from the landlord and tenant and these were copied to the parties.

The tenant explained that he would have difficulty attending the hearing which had been arranged in Maidstone and as we understood that the landlord did not wish to attend the hearing we heard evidence from the tenant at the subject property. We then attended the hearing venue and had the landlord or anyone on his behalf attended the hearing venue then we would have disregarded the evidence from the tenant at the subject property, would have made arrangements for the tenant to attend the hearing and would have received evidence from the tenant and the landlord or his representative. There was no appearance at the hearing venue by the landlord or anyone on his behalf.

The evidence received from the tenant was consistent with his written representations. We considered that evidence and the representations received from the landlord. We were aware that double glazing had been installed. We noted that the landlord on the basis of eight similar properties calculated that the average rent should be more in the region of £155 per week rather than the Rent Officer's figure of £140 but the landlord did not provide any evidence of the rents in respect of the eight similar properties to which he referred. We also noted the landlord's comparison with the rent of No. 39 Heath Grove and his comments about rent capping. As to No. 41 Heath Grove, we noted that although the landlord's evidence was that the rent was due to be increased to £155 per week after remaining at the current rate for almost two years, the fact is that the current rent is £144 per week.

#### **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 evidence supplied by the parties and the Committee's

own general knowledge of market rent levels in the area of Maidstone and the surrounding villages. Having done so it concluded that such a likely market rent would be £145 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 £145 per week 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 (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Committee considered that this required the following deductions:

	£'s per week
Lack of carpets and curtains	6.00
Lack of white goods	4.00
External decorations	2.00
Greater internal repairing liability	<u>5.00</u>
	17.00

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £10 per week.

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 £118 per week.

## **6. Decision**

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £118 per week.

The section 70 fair rent determined by the Committee is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect. Details are provided on the back of the decision form.

**Accordingly the sum of £118 per week will be registered as the fair rent with effect from 16th August 2006 being the date of the Committee's decision.**

Chairman

*A. Vane*

Dated

*16.08.06*