

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

Flat 4
28 Bryanston Square
London
W1H 7LS

The Committee members were

Mrs M Auld LLB
Mrs E Flint DMS FRICS IRRV
Mr C S Piarroux JP CQSW

1. Background

On 11 November 2003 the landlord applied to the rent officer for registration of a fair rent of £10,300 per annum for the above property.

The rent payable at the time of the application was £9,349.50 per annum including £1,166 for services.

The rent was previously registered on 5 July 1999 with effect from the same date at £9,349.50 per annum following a determination by the rent officer.

On 6 June 2003 the rent officer registered a fair rent of £10,400 per annum including £1,603 in respect of services with effect from that date.

By a letter dated 23 June 2003 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection

On 8 December 2003 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 registered rent includes a sum for the following cleaning, lighting, furnishing of common parts, lift, door entry telephone, TV aerial.

3. Evidence

No written representations were received from either party.

A hearing was held on 8 December 2003 in 10 Alfred Place, WC1 at which oral representations were made on behalf of the landlord. The tenant was not present or represented.

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 landlord and the Committee's own general knowledge of market rent levels in the area of Marylebone. Having done so it concluded that such a likely market rent would be £23,400 per annum.

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 £23,400 per annum 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 a deduction of £8,200 per annum.

This leaves an adjusted market rent for the subject property of £15,200 per annum.

The Committee found that there was substantial scarcity in the locality of the Greater London and therefore made a deduction of 30% from the market rent to reflect this element.

6. Decision

The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £10,640 per annum.

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 £10,640 per annum will be registered as the fair rent with effect from 8 December 2003 being the date of the Committee's decision.

Chairman: M Auld

Dated: 8 December 2003

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 written request to the committee clerk at the Panel Office which must be made within 28 days from the date of issue of this document.

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