

Rent Assessment Committee: Summary reasons for decision. Rent Act 1977

Address of Premises

40 Ernest Road
Portsmouth
Hants
PO1 5RB

The Committee members were

Mr D L Edge FRICS (Chairman)
Miss J Dalal

1. Background

On 17 August 2006 the landlord applied to the rent officer for registration of a fair rent of £85.99 per week for the above property.

The rent payable at the time of the application was £77.10 per week, including £1.90 per week for services.

The rent was previously registered on 8 October 2004 with effect from 28 November 2004 at £83.23 per week including £2.23 per week in respect of services (variable) following a determination by the rent officer.

On 5 October 2006 the rent officer registered a fair rent of £92.15 per week / *including £2.15 per week in respect of services/(variable)* with effect from 28 November 2006.

By a letter dated 21 November 2006 the tenant 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 externally at the front on 6 February 2007 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 Committee was unable to gain access at the appointed time in order to inspect the property internally and therefore made an external inspection at the front only.

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

3. Evidence

No written representations were received from either party.

Neither party requested a hearing at which oral representations could be made.

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 Portsmouth. Having done so it concluded that such a likely market rent would be £150 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 £150 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 a deduction of £37.50 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 £112.50 per week inclusive of services.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £112.50 per week inclusive 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 £93.65 per week /inclusive of £2.15 per week for services. (Details are provided on the back of the decision form).

**Accordingly the sum of £93.65 per week /*inclusive of services of £2.15 per week.*
will be registered as the fair rent with effect from 6 February 2007 being the date
of the Committee's decision.**

The registered rent is to be entered as variable in accordance with the terms of the
tenancy (Rent Act 1977, s.71(4)).

(signed)
Chairman _____
D L EDGE

Dated 6 February 2007

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 at the Panel Office which must
be made within 21 days from the date of issue of this document.