

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

Address of Premises

First Floor Flat, Northover
18 Maidstone Road
Borough Green
Kent
TN15 8ER

The Committee members were

Mr D Agnew LLB LLM
Mr R Athow FRICS MRPM

1. Background

On 7th June 2005 the landlord applied to the rent officer for registration of a fair rent of £400 per month for the above property.

The rent payable at the time of the application was £359 per month.

The rent was previously registered on 25th July 2003 with effect from 28th August 2003 of £359 per month following a determination by a rent officer.

On 22 July 2005 the rent officer registered a fair rent of £398.50 per month.

By a letter dated 28th July 2005 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 on 1st September 2005 and found it to be in fair condition as described more particularly in the rent officers survey sheet which has been copied to the parties.

The following tenants improvements had been made to the property:

- Some worktops and cupboards installed in the kitchen
- Wash basin replaced in bathroom

3. Evidence

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

A hearing was held on 1st September 2005 in Sevenoaks at which oral representations were made by 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 a condition that is considered usual for such an open market rent if it were let today in a 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 Sevenoaks. Having done so it concluded that such a likely market rent would be £625 per month.

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 £625 per month 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 £220 per month.

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

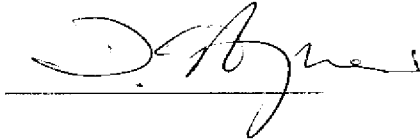
This leaves a net market rent for the subject property of £405 per month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £405 per month.

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 £399 per month.

Accordingly the sum of £399 per month will be registered as the fair rent with effect from 1st September 2005 being the date of the Committee's decision.

Chairman 

Dated 12/9/05

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.