

Southern Rent Assessment Panel

File Ref No.

CHI/00MW/F77/2006/0199

Rent Assessment Committee: reasons for decision.
Rent Act 1977**Address of Premises**

1 Longlands Cottages
Sandown Road
Bembridge
Isle of Wight
PO35 5PW

The Committee members were

D Agnew LLB LLM (Chairman)
M R Horton FRICS
Mrs J E S Herrington

1. Background

On 18 September 2006 the landlord applied to the rent officer for registration of a fair rent of £350 per calendar month for the above property.

The rent payable at the time of the application was £63.00 per week.

The rent was previously registered on 29 November 2001 with effect from the same date at £63.00 per week following a determination by the rent officer.

On 23 October 2006 the rent officer registered a fair rent of £75.50 per week *including £7.70 in respect of services* with effect from that date.

By a letter dated 16 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 on 12 January 2007 and found it to be in poor 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:

Cupboards and base units plus a stainless steel sink to the kitchen.

Lining to the walls in the kitchen and main bedroom.

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.

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 the Isle of Wight. Having done so it concluded that such a likely market rent would be £600 per month (£138.50 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 £600 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 £234 per month (£54.00 per week).

The deductions were as follows:-

	£ p.w.
Tenant's increased decorating liability	8.00
Lack of carpets/curtains/white goods	8.00
Lack of central heating	12.00
Poor kitchen	7.00
Very poor bathroom	9.00
Disrepair	10.00
	<hr/>
	£54.00

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 £366 per month (84.50 per week).

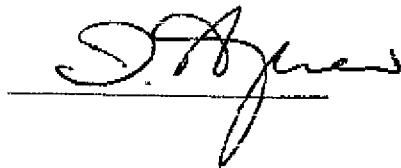
6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £84.50 per week.

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 £76.50 per week. (Details are provided on the back of the decision form).

Accordingly the sum of £76.50 per week will be registered as the fair rent with effect from 12 January 2007 being the date of the Committee's decision. As there was no agreement at the commencement of the tenancy that the tenant would pay for the water supply to the Premises the Committee has not expressed the registered rent to include water rates of any particular amount. However, in determining the rent the Committee could not ignore the fact that the Premises have a supply of water for which no charge could be sought and this has therefore been taken into account by the Committee in determining the rent.

Chairman



Dated

22nd January 2007