

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

Address of Premises

First Floor Flat
26 Sotheby Road
London
N5 2UR

The Committee members were

Mr G F Bowden TD MA FRICS
Mr D L Edge FRICS
Mrs E A V Lewis

1. Background

On 10 February 2004 the landlord applied to the rent officer for registration of a fair rent of £130 per week for the above property.

The rent payable at the time of the application was £117 per week.

The rent was previously registered on 4 March 2002 with effect from the same date at £117 per week following a determination by the rent officer.

On 25 March 2004 the rent officer registered a fair rent of £117.60 per week with effect from that date.

By a letter dated 27 April 2004 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 26 November 2004 and found it to be in good condition except for rear external decorations where window joinery is in a poor state, 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 only.

3. Evidence

The Committee received written representations from the landlord and these were copied to the other party. No written representations were received from the tenant.

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 Highbury. Having done so it concluded that such a likely market rent would be £200 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 £200 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 £30 per week.

This leaves an adjusted market rent for the subject property of £170 per week.

The Committee found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% 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 £136 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 £132 per week. (Details are provided on the back of the decision form).

Accordingly the sum of £132 per week will be registered as the fair rent with effect from 29 November 2004 being the date of the Committee's decision.

Chairman: G F Bowden

Dated: 29 November 2004

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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