

## Notice of the Rent Assessment Committee Decision

### Rent Act 1977 Schedule 11

**Address of Premises**

43 ISABELLA DRIVE  
ORPINGTON  
KENT  
BR6 7UE

**The Committee members were**

MR I MOHABIR LLB (HONS)  
MR T N JOHNSON FRICS  
MRS L WEST

**Landlord** Keniston Housing Association

**Tenant** Mrs R Dungate

1. The fair rent is £ 99.46 Per week (excluding water rates and council tax but including any amounts in paras 3&4)

2. The effective date is 2 November 2006

3. The amount for services is £ 18.46 Per week

4. The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is

£ not applicable

Per

5. The rent is to be registered as variable.

6. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply (please see calculation overleaf).

7. Details (other than rent) where different from Rent Register entry

Flat built C.1980

8. For information only:

(a) The fair rent to be registered is the maximum fair rent as prescribed by the Rent Acts (Maximum Fair Rent) Order 1999. The rent that would otherwise have been registered was £103.46 per week including £18.46 per week for services (variable).

**Chairman**

I Mohabir

**Date of Decision**

2 November 2006

# MAXIMUM FAIR RENT CALCULATION

LATEST RPI FIGURE x 199.2

PREVIOUS RPI FIGURE y 149.8

X 199.2 Minus y 149.8 = (A) 49.4

(A) 49.4 divided by y 149.8 = (B) 0.329773

First application for re-registration since 1 February 1999 YES

If yes (B) plus 1.075 = (C) 1.404773

If no (B) plus 1.05 = (C)

Last registered rent\* 57.50 Multiplied by (C) = 80.77  
\*(exclusive of any variable service charge)

Rounded up to nearest 50 pence = 81.00

Variable service charge YES

If YES add amount for services 18.46

MAXIMUM FAIR RENT = 99.46 Per Week

## Explanatory Note

1. The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
2. In summary, the formula provides for the maximum fair rent to be calculated by:
  - (a) increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
  - (b) adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).

A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B).

The result is rounded up to the nearest 50 pence.

3. For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Committee's fair rent determination was made.
4. The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.

## **Rent Assessment Committee: Summary reasons for decision.**

### **Rent Act 1977**

**Address of Premises**

43 Isabella Drive  
Orpington  
Kent  
BR6 7UE

**The Committee members were**

Mr I Mohabir LLB (Hons)  
Mr T N Johnson FRICS  
Mrs L West

### **1. Background**

On 2 June 2006 the landlord applied to the rent officer for registration of a fair rent of £68.40 per week for the above property.

The rent payable at the time of the application was £41.49 per week.

The rent was previously registered on 21 June 1995 with effect from the same date at £57.50 per week following a determination by the rent officer.

On 27 July 2006 the rent officer registered a fair rent of £70.51 per week including £16.01 in respect of services (variable) with effect from that date.

By a letter dated 18 August 2006 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 20 October 2006 and found it to be in good condition.

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

### **3. Evidence**

The Committee received written representations from the landlord and these were copied to the tenant. 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 Orpington. Having done so it concluded that such a likely market rent would be £125 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 £125 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 £18.75 per week.

This leaves an adjusted market rent for the subject property of £106.25 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 £85 per week to which the sum of £18.46 per week in respect of services should be added.

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 £81.00 per week (Details are provided on the back of the decision form) to which the sum of £18.46 per week in respect of services should be added.

**Accordingly the sum of £99.46 per week inclusive of services of £18.46 per week will be registered as the fair rent with effect from 2 November 2006 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)).

Chairman: I Mohabir

Dated: 2 November 2006

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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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