

SOUTHERN RENT ASSESSMENT PANEL

Statement of Reasons for the Decision by a Committee of the Panel following an Inspection
carried out on 7th July 2005

Rent Assessment Committee

Mrs H C Bowers MRICS (Chairman)

Mr P Turner-Powell FRICS

Mrs J Playfair

Case No.: CHI/43UH/F77/2005/0097
Re: 7 Furzecroft, Percy Avenue, Ashford, Middlesex.
Landlord: GIP Limited
Tenant: Miss Allen

Introduction

1. The property the subject of this objection is a second floor flat that is let by GIP Limited ("the landlord") to Miss Allen ("the tenants") on an unfurnished regulated tenancy governed by the Rent Act 1977 ("the Act"). Consequently the rent payable by the tenant is a fair rent as defined in section 70 of the Act and it falls to be reviewed not more than once every two years. In an application made by the landlord dated 17th February 2005, a rent of £1,599 per quarter was proposed. On 15th April 2005 the Rent Officer determined a rent of £1,470.50 per quarter in respect of the subject property and registered it so that the rent was effective from that date. The uncapped rent was £1,535 per quarter. Prior to the current registration, the rent was registered at £1,332 per quarter with effect 25th March 2003. In a letter dated 29th April 2005 the landlord objected to the current registration and so the matter came before the Committee.

The Statutory Provisions

2. It may be helpful if we describe the legal background to the function we have to perform. We have paraphrased the provisions of section 70 of the Act below, in the hope of making them reasonably comprehensible. The actual terms of the Act are in some ways rather more complex than our description indicates. This might suggest that we have failed to apply the terms of the Act properly. Therefore we make it plain that we have in practice carried out our work by reference to the actual wording of the Act and the decided cases upon it and not by reference to this short description.

3. Under Section 70 of the Act the Committee had to consider, in determining what is or would be a fair rent under a regulated tenancy of the dwelling house, all the circumstances (other than personal circumstances), in particular the age, character and state of repair of the property, if any furniture is provided and any premium which has been or may be lawfully required. The Committee had further to consider for the purposes of the determination whether the number of persons seeking to become tenants of similar dwelling houses in the locality on terms (other than those relating to rent) of the regulated tenancy is substantially greater than the number of dwelling houses in the locality which are available for letting on such terms. This provision is referred to as the scarcity factor. The Committee had to disregard any disrepair or other defect attributable to a failure by the tenant; any improvement carried out by the tenant and if any furniture is provided any deterioration in the condition of the furniture due to any ill treatment by the tenant.
4. On 7th December 2000, the House of Lords overruled a decision of the Court of Appeal, dated 20th January 2000, which had declared the Rent Act (Maximum Fair Rent) Order ("the Capping Order") invalid. This Order prescribed a formula to limit the amount of fair rents and has now to be treated as always having been valid. However, Rent Acts (Maximum Fair Rent) Order 1999 will not apply on a first registration of a rent or in circumstances where the landlord has carried out repairs and improvements to a property and the rental value of the work exceeds 15% of the previously registered rent.

Inspection

5. We made an inspection of the property on the 7th July 2005 in the company of the Miss Allen. The subject property is a second floor self-contained flat. The block dates from the 1950's. The accommodation provided is one living room, kitchen, one bedroom and a bathroom. The property has no central heating and the kitchen and bathroom are un-modernised.
6. The common areas and quite basic and the tenant highlighted problems associated with the front access to the block.

Representations

7. A hearing was held on 7th July 2005 in Knowle Green at which oral representations were made by Miss Allen and her representative Mr Jones. The landlord did not attend the hearing or provided any written representations.
8. Tenant's Representations.
The condition of the metal-framed windows was described to the tribunal. The wiring in the property was quite dated and may be dangerous. There was no cleaning of the common parts and of the windows in the stairwells. The problems associated with the removal of the front porch and the steep step unto the entrance hall was raised. Miss Allen mentioned that she had installed new taps in the kitchen and the bathroom.
9. The tribunal mentioned that they were aware of a letting in the block at £725 per calendar month and asked if the tenant or her representative had any comments. Mr Jones stated that he was aware that lettings at a similar figure had been achieved in the development.

Consideration

10. When considering the rental of a property under the provisions of the Rent Act 1977 we are obliged to ignore any personal circumstances when arriving at rental values. We are to consider the property at the date of our inspection and take account of the condition of the property at that time.
11. In the judgement of the Court of Appeal in the case of *Curtis v London Rent Assessment Committee* {30 HLR 733} the Court held that the starting point for the determination of the fair rent must be the open market rent appropriate for the property. A fair rent is the open market rent adjusted for the statutory disregards and for scarcity. As to the scarcity factor, in the case of *Queensway Housing Association Limited v Chiltern, Thames and Eastern Rent Assessment Committee*, the Court held that the Committee must consider a really large area that gives an appreciation of the trends of Scarcity and their consequences, in determining whether the factor is applicable in the instant case. In the light of the recent House of Lords decision, the Committee also has to consider the application of the maximum fair rent under the capping formula.

12. In the first instance we must look at the level of rents in the open market as these provide us with the closest guidance as to the level of fair rents once certain deductions have been made and these are considered below. We are aware of a flat let at £725 per calendar month and Mr Jones acknowledged this figure, being aware of other lettings at a similar figure in the development. Given this information we are satisfied that the open market rental value for the subject property, would be £725 per calendar month.
13. However, at this level of rent the property would be good, modern letting condition. By “good modern letting condition” we mean what a prospective tenant would expect to find. The property would be in good structural and decorative order both inside and out. It would be carpeted and might have curtains. It might also have some “white goods” such as a cooker and a washing machine. That is what people in this locality expect of a letting on the open market.
14. There are no carpets, curtains or white goods included in this letting. We have made an adjustment of £75 per calendar month to allow for the difference, being the amount of the reduction in rent that we believe a prospective tenant would expect to receive in the open market to reflect these issues. There is no central heating system therefore a deduction of £30 per calendar month has been made.
15. The kitchen and bathroom of this flat as originally let would not be up to the standard one would normally expect for a property letting at this level of rent. For these factors we have deducted £75 per calendar month.
16. We have made an adjustment to reflect the different obligations about repairs and decorations, between the usual open market assured shorthold tenancy and this regulated tenancy. The assured shorthold tenant normally takes a property in good decorative order with liability subject to “fair wear and tear”. This tenant has a greater liability, which should be reflected. It is our collective opinion that someone taking a tenancy in the open market that imposed those additional obligations upon him would be prepared to pay less by way of rent than he would pay if the landlord were to be responsible for dealing with them. Therefore taking this issue into account we have made an adjustment of £30 per calendar month.
17. The flat has very dated wiring and accordingly we have made a deduction of £10 per calendar month to reflect these items.

18. We need to consider whether there should be any allowance for the effects of scarcity. We considered the market in Middlesex and North Surrey for this purpose. That seems to us to be the area in which conditions of supply and demand would be likely to affect the rent for the property with which we are concerned and from which prospective tenants are likely to be drawn. It seems to us to be the extent of the really large area that the Courts have described as being appropriate to this purpose. We also took into account our collective knowledge and experience of the market in that area. We bore in mind that we must consider the effect that scarcity might have on the net rent after the adjustments. We have come to the conclusion that whilst we had no specific representations before us, there is a general balance of supply and demand within the locality we have described and therefore we have not made an allowance for scarcity.

19. We therefore produced the following calculation on a calendar monthly basis:

Open Market Rent:		£
		725
Less allowances for:		
Lack of Carpets, Curtains and White Goods	75	
Kitchen/Bathroom	75	
No Central Heating	30	
Internal Decorating Liability	30	
Wiring	<u>15</u>	
	225	<u>225</u>
		£500
Fair Rent	£500 per calendar month	

20. We therefore determined a rent for the subject property of £500 per calendar month and this equates to £1,500 per quarter. 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 £1,448.50 per quarter (Details are provided on the back of the decision form). Therefore the amount to be registered is **£1,448.50 per quarter**. This rent will be registered with effect from **7th July 2005** being the date of the Committee's decision.

Chairman



Date:-

19/7/05 .