

Rent Assessment Committee: Reasons for decision.

Rent Act 1977

Address of Premises

Four Acres
Rectory Lane
Ashington
West Sussex RH20 3LH

The Committee members were

Mr B H R Simms FRICS MCIArb
Mr R A Wilkey FRICS FICPD
Ms J K Morris

1. Background

On 10 October 2006 the landlord applied to the Rent Officer for registration of a fair rent of £1,590 per calendar month for the above property. The rent payable at the time of the application was £530 per calendar month.

The rent was previously registered at £530 per calendar month on 26 January 2005 with effect from the same date following a determination by a Rent Assessment Committee.

On 27 November 2006 the Rent Officer registered a fair rent of £588 per calendar month with effect from 26 January 2007.

By a letter dated 15 December 2006 the landlord's agent 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 2 March 2007 and found it to be only in fair condition more particularly described in the Rent Officer's survey sheet. The side entrance porch was out of repair and the interior was poorly maintained and untidy.

The property comprises a modern detached bungalow built of brick with replacement double glazed windows under a pitched, tile-covered roof. It is situated on a corner plot in the village of Ashington. There are some local shops and a very limited bus service. The accommodation comprises 2 living rooms, three bedrooms, kitchen bathroom and separate WC. There is vehicle access to the garage.

It was noted that parts of the garden have been removed from the tenancy in order to construct new houses. The garden is now of modest size.

Tenant's improvements have been made to the property; The tenant has added kitchen worktops and cupboards as only a deep china sink was provided by the landlord. The bathroom has been improved. The timber garage has been constructed by the tenant. Ccentral heating has been installed by the tenant with the aid of a grant.

3. Evidence

The Committee received written representations from the landlord's agent and the tenant and these were copied to the parties. Neither party requested a hearing at which oral representations could be made.

The landlord's agent described the property and gave details of a house in Crawley and a terrace house in Eastbourne as rental comparables. The tenant believed these comparables to be completely irrelevant. The Committee found these comparables of no assistance. No rental value was given other than to say that the Rent Officer's figure was too low.

The tenant emphasised that the buses run on a two hourly basis with the last bus at about 6.00 p.m. She stated that there is only one shop in the village and the doctor is about 6 miles away. In defence of the registered rent the tenant mentioned a bungalow in Rectory Close which had been on the market for 6 months or so but she gave no particulars or the quoting rent.

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

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 Committee's own general knowledge of market rent levels in the area of Rural Sussex. Having done so, it concluded that such a likely market rent would be £850 per calendar month.

However, the actual property is not in the condition considered usual for a modern letting at a market rent. No white goods or carpets and curtains are provided by the landlord and there are no proper kitchen fittings. The bathroom would need upgrading to command this rent. Therefore it was first necessary to adjust that hypothetical rent of £850 per calendar 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 monthly rent deduction of £35 for white goods, £30 for kitchen fitting, £35 for carpets and curtains and £15 for bathroom upgrading, a total deduction of £115 per calendar month.

The regulated tenancy imposes on the tenant a greater responsibility for repairs and decorations when compared to a shorter market tenancy giving rise to the hypothetical market rent quoted above. The Committee made a further deduction of £35 per calendar month to reflect this difference in tenancy terms.

Furthermore, to allow for the tenant's improvement in constructing the garage it was necessary to make a further deduction of £25 per calendar month. The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity.

The total deductions are £175 per calendar month leaving a net market rent for the subject property of £675 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £675 per calendar 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 £592.50 per calendar month (Details are provided on the back of the decision form).

Accordingly the sum of £592.50 per calendar month be registered as the fair rent with effect from 2 March 2007 being the date of the Committee's decision.

Chairman 

Mr B H R Simms FRICS MCIArb

Dated 3 March 2007
