

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

**Rent Act 1977**

### **Address of Premises**

Ground Floor Flat  
205, Balmoral Road  
Gillingham,  
Kent,  
ME7 4QH.

### **The Committee members were**

Mr. R. Norman (Chairman)  
Mr. M. G. Marshall FRICS  
Ms J. Dalal

## **1. Background**

On 21st October 2004 the landlord applied to the rent officer for registration of a fair rent of £78 per week for the above property.

The rent payable at the time of the application was £40 per week.

The rent was previously registered on 6th June 1991 with effect from 23rd June 1991 at £40 per week following a determination by the rent officer.

On 9th December 2004 the rent officer registered a fair rent of £70 per week with effect from that date.

By a letter dated 22nd December 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 28th February 2005 and found it to be in fair condition. The Rent Officer's notes of consultation contain a description of the property and those notes have been copied to the parties.

We noted that there were some matters which needed attention by the landlord. There were light fittings where the wiring in the ceiling rose was exposed, some skirting board was missing, there was a crack between the door frame and wall of the bedroom, there was what

appeared to be signs of damp in the bathroom, some plastering was needed and the external doors needed painting.

In the kitchen the landlord had provided the sink unit and the gas cooker but everything else in the kitchen belonged to the tenant. The tenant had provided the curtains at the property.

However, it was accepted by the parties that since the previous registration of a fair rent in 1991, the landlord had provided gas fired central heating in 2003, double glazed windows in 1997, carpets in 2004, a new gas cooker in 2004 and that some electrical work, including the provision of two extractor fans, had been done.

### **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.

The landlord requested a hearing at the property and the tenant agreed to this.

A hearing was held on the 28th February 2005 at the property at which oral representations were made by the landlord and by the tenant.

### **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 Medway Towns. Having done so it concluded that such a likely market rent would be £90 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 £90 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 £14 per week to take account of the lack of a modern kitchen, the fact that curtains were not provided by the landlord and the matters which we noted required attention by the landlord.

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 £76 per week.

## 6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £76 per week.

The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because by virtue of landlord's repairs and/or improvements since the previous registration the rent determined by the Committee exceeds by at least 15% the previous registered rent.

**Accordingly the sum of £76 per week will be registered as the fair rent with effect from 28th February 2005 being the date of the Committee's decision.**

Chairman



Dated

28.02.05