

Rent Assessment Committee: Summary reasons for decision.

Housing Act 1988

Address of Premises

227 Chertsey Road
Addlestone
Surrey
KT15 2EN

The Committee members were

Mr I R Mohabir
Mr J H S Preston JP FRICS
Mr D Wills

1. Background

On 6 October 2003 the tenant of the above property referred to the Committee a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.

The landlord's notice, which proposed a rent of £184.62 per week with effect from 4 November 2003 is dated 15 September 2003.

The tenancy commenced in July 2002.

The tenancy is a statutory periodic tenancy by succession which arose on the death of the former tenant. The rent payable is £103 per week.

2. Inspection

The Committee inspected the property on 13 November 2003 and found it to be in fair condition.

There were no qualifying tenant's improvements that had been made to the property because the improvements reported to the Committee were carried out by the previous tenants and therefore had to be disregarded under Section 14 Housing Act 1988 by the Committee.

3. Evidence

The committee received written representations from the tenant and these were copied to the parties. No written representations were received from the landlord.

Neither party requested a hearing at which oral representations could be made.

4. The law

In accordance with the terms of section 14 Housing Act 1988 the Committee proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

In so doing the Committee, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

In coming to its decision the Committee had regard to the evidence supplied by the parties/ and the members' own general knowledge of market rent levels in the area of Addlestone and concluded that an appropriate market rent for the property would be £157 per week.

5. The decision

The Committee therefore concluded that the rent at which the property might reasonably be expected to be let on the open market would be £157 per week.

This rent will take effect from 4 November 2003 being the date specified by the landlord in the notice of increase.

Chairman

J. Kershaw

Dated

13/11/03

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 request to the committee clerk which must be made within 21 days from the date of issue of this document.

IN THE SOUTHERN RENT ASSESSMENT COMMITTEE

CHI/43UG/MNR/2003/0165

PROPERTY: 227 CHERTSEY ROAD, ADDLESTONE, SURREY, KT15 2EN

BETWEEN:

PATRICK EGAN

Tenant

-and-

SOUTH LONDON FREEHOLDS LIMITED

Landlord

THE COMMITTEE'S REASONS

1. BACKGROUND

1.1 This is a reference by a tenant, Patrick Egan, of a landlord's notice proposing a new rent for an assured weekly periodic tenancy. The landlord is South London Freeholds Limited. The property is a two storey house with three bedrooms, two living rooms, a kitchen and a ground floor bathroom and toilet.

1.2 The tenant is an assured tenant by succession, having succeeded the tenancy in or about July 2002 upon the death of his mother whose tenancy was governed by the provisions of the Rent Act 1977. The current

tenancy is, therefore, governed by the provisions of the Housing Act 1988 (“the Act”) (as amended). The current rent is £103 per week exclusive of water rates and Council Tax.

1.3 By a notice under section 13 (2) of the Act 1988 dated 15 September 2003, the landlord proposed that a new rent of £184.62 per week should be paid from 4 November 2003.

1.4 By an undated section 13 (4) application received on 6 October 2003, the tenant referred the notice to the Committee. Neither party requested an oral hearing to be arranged. The only papers before the Committee for its consideration was a letter from the tenant dated 28 October 2003 dealing with improvements made by his late father to the subject property during his occupation, which commenced in January 1962. No written representations were received from Hamways Chartered Surveyors, who were acting as the landlord’s agent in this matter.

2. INSPECTION

2.1 The Committee inspected the property on 13 November 2003.

2.2 The subject property is an end of terrace house constructed in the late 19th century of brick with a slate roof. It has timber framed sash windows and PVC gutters. The roof appears to be sound. External joinery is in need of painting.

- 2.3 Internally, there was evidence of significant condensation to the bathroom, mainly due to poor ventilation and insulation. The bathroom generally is below modern standards and access to it is through the kitchen.
- 2.4 The gas-fired central heating system was installed by the landlord about 12 years ago, when the electrical installation was rewired.
- 2.5 The subject property is situated on a busy main road and has no off-street parking. There is a small garden to the front, rear and one side of the house.
- 2.6 All main services are connected.

3. LAW

- 3.1 The Committee is required to determine the rent in this referral in accordance with the statutory provisions set out in section 14 (1) of the Act.
- 3.2 Section 14 (1) of the Act provides that:
- Where, under subsection (4) (a) of section 13 above, a tenant refers to a rent assessment committee a notice under subsection (2) of that section, the committee shall determine the rent at which, subject to subsections (2)*

and (4) below, the committee consider that the dwelling house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy -

- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;*
- (b) which begins at the beginning of the new period specified in the notice;*
- (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and*
- (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 of this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.*

3.3 Any determination by the Committee is subject to the statutory disregards, if any, set out in section 14 (2) of the Act. This section provides that:

In making a determination under the section, there shall be disregarded-

- (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;*
- (b) any increase in the value of the dwelling attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-*

- (i) *was carried out otherwise than in pursuance of an obligation to his immediate landlord, or*
- (ii) *was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and*
- (c) any reduction in the value of the dwelling house attributable to a failure by the tenant to comply with any terms of the tenancy.

Section 14(3) of the Act then goes on to define what a relevant improvement is under section 14(2)(b).

4. DETERMINATION

- 4.1 The Committee then commenced its determination of the appropriate open market rent for this property in accordance with the provisions of section 14 (1) of the Act as set out above. The Committee's determination is based on the evidence before it.
- 4.2 Neither party submitted any evidence of market rents for comparable properties to the subject property. Accordingly, in the absence of any relevant comparables, the Committee relied on its own knowledge and experience of market rents in the area of Addlestone and determined that

the open market rent for the property was £196 per week exclusive of council tax and water rates.

4.3 The Committee was of the view that the market rent of £196 per week was only appropriate where a similar property in the Addlestone area was being let on the usual assured tenancy terms, had been modernised and decorated and had double glazing. Such a letting would also include carpets, curtains, white goods and the tenant would not have an obligation to decorate internally.

4.4 However, the subject property was not being let on the same terms as it lacked modernisation and had no carpets, curtains or white goods. It suffered from a poor layout as the bathroom could only be accessed through the kitchen. The subject property was situated on a busy main road and did not have off street parking. It was in a poor state of external repair. The tenant was also responsible for internal decorations.

4.5 The Committee then considered the issue of the improvements claimed by the tenant, namely the installation of bathroom fittings and kitchen fittings, electrical work, roof repairs, replacement of floor boards and concreting the yard. The tenant stated that these improvements were made by his late father. He also stated that his mother had refitted the kitchen about 11 years ago. The Committee, having inspected the subject property, found

that the improvements claimed by the tenant were consistent with the tenant's assertion that they had been carried out prior to his tenancy commencing in or about July 2002. Accordingly, they did not come within the meaning of section 14(3)(b) of the Act and therefore were not 'relevant improvements' that could be claimed by the tenant. It follows that these were not improvements to be disregarded by the Committee under section 2(b) of the Act when making its determination of the market rent.

- 4.6 For the reasons set out in paragraph 4.4 above, the Committee determined that a reduction from the market rent of £196 per week of £39 was appropriate providing an adjusted market rent of £157 per week for the subject property. No submissions were made or evidence submitted in relation to undue hardship on the part of the tenant. The Committee therefore found that the proviso to section 14 (7) of the Act did not apply. Therefore, the Committee determined that the rent of £157 per week would be payable from 4 November 2003 being the date specified by the landlord in notice of increase.

CHAIRMAN.....I. Mohale

DATE.....23/2/04