

Rent Assessment Committee: Summary reasons for decision. Rent Act 1977

Address of Premises

13 Reginald Noble Court
66 Surrey Road
Bournemouth
BH4 9HU

The Committee members were

Mr A Mellery-Pratt FRICS
Mr P Smith

1. Background

On 25th May 2004 the landlord applied to the rent officer for registration of a fair rent of £75.39 per week for the above property.

The rent payable at the time of the application was £71.50 per week.

The rent was previously registered on 10th December 2001 with effect from the same date at £87.80 per week following a determination by the rent officer.

On 29th June 2004 the rent officer registered a fair rent of £90.66 per week including £21.66 in respect of services(variable) with effect from that date.

By a letter received by the Rent Assessment Committee on the 5th August 2004 the tenant objected to the rent determined by the Rent Officer and the matter was referred to a Rent Assessment Committee.

2. Inspection

The Committee inspected the property on 29th September 2004 and found it to be in good condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The flat is situated in a purpose built block, about 25 years old, comprising 28 flats with communal lounge and laundry facilities, a guest room and a resident warden.

The flat comprises a lounge, with fitted kitchen off, a small double bedroom, an internal bathroom and a large storage cupboard. Central heating is provided from a communal system.

No tenant's improvement had been noted. The rent includes services as scheduled by the landlord and amounting to £4.38 per week for heating and £17.74 for other services.

3. Evidence

The tenants had advised that she was concerned at the rent level as she had to pay electricity and water rates in addition. The tenant had requested a hearing but was not well enough on the day and the committee therefore considered the matter with the benefit of their own knowledge and experience.

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 Committee's own general knowledge of market rent levels in the area of the Bournemouth and Poole conurbation. Having done so it concluded that such a likely market rent would be £125.00 per week, including services.

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 £125.00 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 £13.00 per week as follows:-

Tenant's decorating liability	3.00
No carpet or curtains	5.00
Dated bathroom fittings	<u>5.00</u>
	£13.00

The committee had noted the cost of services at £17.74 per week and fuel costs of £4.38 per week. Additionally the committee noted a figure of £3.92 for a 'Supporting People Programme'. No explanation for this last figure had been offered and the committee therefore concluded that this was not properly payable as service charge.

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 £112.00 per week including the sum of £17.74 in respect of services.

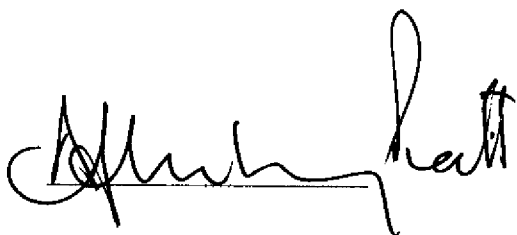
6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £112.00 per week inclusive of £17.74 per week in respect of services.

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 £87.24 per week inclusive of services (Details are provided on the back of the decision form).

Accordingly the sum of £87.24 per week inclusive of services of £17.74 per week will be registered as the fair rent with effect from 29th September 2004 being the date of the Committee's decision.

Chairman



Dated

12th November 2004

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 at the Panel Office which must be made within 21 days from the date of issue of this document.