

**Rent Assessment Committee: Extended Reasons for Decision.  
Rent Act 1977**

**Address of Premises**

Flat 3,  
8, Ellenslea Road  
St Leonards on Sea  
East Sussex TN37 6HY

**The Committee members were**

Mr R T A Wilson LLB  
Lady Davies FRICS  
Ms J Dalal

**1. Background**

On 29<sup>th</sup> June 2004 the landlord applied to the rent officer for registration of a fair rent of £600 per month for the above property.

The rent payable at the time of the application was £ 205 per month. This rent was registered on 22<sup>nd</sup> November 1995 with effect from the same date following a determination by the rent officer.

On 17<sup>th</sup> August 2004 the rent officer registered a fair rent of £ 271.50 per month with effect from that date.

By a letter dated 3<sup>rd</sup> September 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 24<sup>th</sup> November 2004 and found a substantial late Victorian detached building in poor repair. The woodwork showed evidence of rot and peeling paint work. Re-pointing work was necessary. The concrete balcony showed signs of deterioration and the front garden was neglected.

The building was in a predominantly residential area with no parking restrictions and close to the train station.

The flat is a ground floor self contained unit comprising of living room, store room, small kitchen, one double bedroom and bathroom with a basic bath, w.c. and wash basin.

We found the flat to be damp throughout with damp stains in the bedroom, kitchen and living room. The windows in all the rooms were in poor repair. The flat had no central heating and all the white goods and furnishings were supplied by the tenant.

### **3. Evidence**

The Committee received written representations from the landlord and tenant and these were copied to the parties.

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

In written submissions the landlord's surveyor had cited 3 properties as providing comparable evidence.

1. 42 St Mary's Road, Eastbourne
2. 5 New Place, Eastbourne
3. First floor flat, 17 Medina Villas Hove

The Committee noted that properties 1 and 2 were both houses with at least four rooms and in a completely different town. Property 3 was a flat but was situated in Hove, some 40 miles west from the subject flat and from the Committee's collective experience subject to a material different letting market.

The Committee decided that the differences between the subject property and these properties were so great as to make this evidence of limited use.

#### **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 Hastings. Having done so, it concluded that such a likely market rent would be £380 per month.

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 £380 per 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 a deduction of £105 per month made up as follows:-

• lack of central heating	£50 per month
• Lack of white goods	£20 per month
• Lack of carpets and curtains	£10 per month
• General disrepair and damp	<u>£25 per month</u>

**Total            £105.00 per month**

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 £ 275 per month calculated as follows:-

Optimum market rent	£380 per month
Less allowances referred to above	<u>£105 per month</u>

**Total            £275 per month**

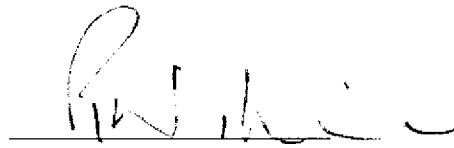
## 6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £275 per 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 £273 per month (Details are provided on the back of the decision form).

**Accordingly the sum of £ 273 per month will be registered with effect from 24<sup>th</sup> November 2004 being the date of the Committee's decision.**

Chairman

  
Mr R T A Wilson LL.B

Dated

7<sup>th</sup> December 2004