

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

9 Barwis Hill
PENZANCE
Cornwall TR18 2AL

The Committee members were

R Batho MA BSc LLB FRICS (Chairman)
R P Long LLB
A J Lumby BSc FRICS

1. Background

On 26th October 2006 the landlords (through their agents, Messrs Stratton and Holborow) applied to the rent officer for registration of a fair rent of £495.00 per calendar month for the above property. The rent had previously been registered at £266.50 per calendar month following a determination by the rent officer.

On 17th November 2006 the rent officer registered a fair rent of £295.50 per calendar month with effect from that date. By a letter dated 23rd November 2006 the landlords' agents asked for the matter to be referred to a Rent Assessment Committee.

2. Inspection

The Committee inspected the property on Thursday 15th February 2007, in the presence of Mrs Richards, one of the landlords, and of Mrs Coram, one of the tenants. The Committee found it to be in fair condition, as described more particularly in the rent officer's survey sheet which had been copied to the parties. The Committee noted that the tenants had made a number of improvements to the property during their tenancy, including improvement to the kitchen involving the replacement of the original kitchen sink with a stainless steel sink and base unit and the addition of other units; the creation of a bathroom/wc in the original third bedroom, replacing the original outside toilet; and the installation of a hot water system.

3. Evidence

The Committee had the benefit of written representations received from the landlord and copied to the tenants, in which reference was made to the letting in May 2006 of a nearby two bedroomed property, this having been let on an assured shorthold tenancy at £495 per calendar month. No written representations were received from the tenants. Neither party requested a hearing at which oral representations could be made.

4. The Law

When determining a fair rent the Committee, in accordance with the Rent Act 1977, s.70, had regard to all the circumstances including the age, location and state of repair of the property and disregarded the effect of any relevant tenant's improvements on the rental value of the property, assuming it still to be in its original condition before those improvements were made.

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 of the rent, if any, that is attributable to there being a shortage of similar properties in the locality available for letting on similar terms) and
(b) that assured tenancy (market) rents are usually appropriate market rent comparables.

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 landlords' agents and the Committee's own general knowledge of market rent levels in the area of mid and west Cornwall. Having done so it concluded that such a likely market rent would be the £495.00 per calendar month put forward by the landlords' agents.

However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore it was necessary to adjust that hypothetical rent of £495.00 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 a deduction of £60.00 per calendar month. In order to allow for the tenant's improvements, as listed above, it was necessary to make a further deduction of £90.00 per calendar month and a further adjustment was made to allow for the differences in repairing obligations between the comparable properties and the subject property.

Having made all of these adjustments the Committee arrived at a fair rent of £315.00 per calendar month for the subject property.

The Committee did not consider that there was any substantial scarcity element in Cornwall at present and accordingly no further deduction was made for scarcity.

5. Decision

The fair rent determined by the Committee is accordingly £315.00 per calendar month.

However, that rent is capped by the Rent Acts (Maximum Fair Rent) Order 1999 and the amount to be registered/confirmed as the fair rent is accordingly limited to £299.50 per calendar month. Details are provided on the back of the decision form.

Signed



Dated

15th February 2007

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.