

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

Address of Premises

23 Cedar Road
Sutton, Surrey
SM2 5DG

The Committee members were

Mr J E Hewitt
Mr D N Huckle FRICS
Dr A M Fox BSc PhD MCI Arb

1. Background

On 14 June 2004 the landlord applied to the rent officer for registration of a fair rent of £930 per month for the above property.

The rent payable at the time of the application was £310.50 per month.

The rent was previously registered on 18 July 2002 with effect from 20 August 2002 at £310.50 per month by the rent officer.

On 27 July 2004 the rent officer registered a fair rent of £345 per month with effect from 20 August 2004.

By a letter dated 10 August 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 29 October 2004 and found it to be in fairly poor condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

3. Evidence

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

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, 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 Sutton. Having done so it concluded that such a likely market rent would be £750 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 £750 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 £265 per month.

This leaves an adjusted market rent for the subject property of £485 per month.

The Committee found that there was substantial scarcity in the locality of Outer London and therefore made a deduction of about 15% from the market rent to reflect this element.

6. Decision

The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £410 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 £348 per month.

Accordingly the sum of £348 per month will be registered as the fair rent with effect from 12 November 2004 being the date of the Committee's decision.

Chairman: Mr J Hewitt

Dated: 12 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 written request to the committee clerk at the Panel Office which must be made within 28 days from the date of issue of this document.

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