

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

Address of Premises

61 Meadow Road
Worthing
West Sussex
BN11 2RH

The Committee members were

Mr D M Nesbit JP FRICS FCI Arb (Chairman)
Mr R A Wilkey FRICS FICPD
Miss J Dalal

1. Background

On 19 March 2003 the landlord applied to the rent officer for registration of a fair rent of £510.24 per calendar month for the above property.

The rent payable at the time of the application was £340.16 per calendar month.

The rent was previously registered on 1 February 2001 with effect from the same date at £4,082 per annum following a determination by the rent assessment committee.

On 1 July 2003 the rent officer registered a fair rent of £87 per week with effect from that date.

By a letter received 9 July 2003 the tenant 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 27 August 2003 and found it to be in poor condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The following tenant's improvements had been made to the property.

Fitted night storage heaters.

Fitted coloured bathroom suite.

Fitted kitchen with units, plumbing etc.
Hardstanding with garage to rear garden,
And as noted in the Rent Officers report.

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

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 the evidence supplied by the parties and/letting. It did this by having regard to the Committee's own general knowledge of market rent levels in the area of Worthing and West Sussex. Having done so it concluded that such a likely market rent would be £650.00 per calendar 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 £650.00 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 £126.00 per calendar month.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £8.50 per calendar month.

Note: the wording has been revised to deal with the common case where the parties do not provide market comparables and also to permit the specification of sums in respect of (a) differences between the condition of the real or hypothetical comparable(s) and the subject property and (b) the rental value of tenant's improvements, to be specified.

The Committee found that there was substantial scarcity in the locality and therefore deducted a further sum of £51.50 from the market rent to reflect this element.

This leaves a net market rent for the subject property of £515.50 per calendar month. For the assistance of the parties details of the calculations are attached.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £515.50 per calendar 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 £375.58 per calendar month. (Details are provided on the back of the decision form).

Accordingly the sum of £375.58 per calendar month will be registered as the fair rent with effect from 27 August 2003 being the date of the Committee's decision.

Chairman _____

Dated _____

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.

Notice of the Rent Assessment Committee Decision

Rent Act 1977 Schedule 11

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Worthing
West Sussex
BN11 2RH

The Committee members were

Mr D M Nesbit JP FRICS FCI Arb (Chairman)
Mr R A Wilkey FRICS FICPD
Miss J Dalal

Landlord

Bankway Properties Ltd

Tenant

Mrs J M Ellis

1. The fair rent is

£ 575.56

Per

cal work

(excluding water rates and council tax but including any amounts in paras 3&4)

2. The effective date is

27/08/2003

3. The amount for services is

N/a

Per

negligible/not applicable

4. The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is

£

—

Per

—

not applicable

5. The rent is not to be registered as variable.**6. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply (please see calculation overleaf)/ do not apply because 1st registration/15% exemption.****7. Details (other than rent) where different from Rent Register entry****8. For information only:**

(a) The fair rent to be registered is the maximum fair rent as prescribed by the Rent Acts (Maximum Fair Rent) Order 1999. The rent that would otherwise have been registered was £575.56 per cal work including £— per — for services (variable).

(b) The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999, because it is the same as/below the maximum fair rent of £— per — including £— per — for services (variable) prescribed by the Order.

Chairman

D M NESBIT

Date of decision

27/08/2003

MAXIMUM FAIR RENT CALCULATION

LATEST RPI FIGURE x 181.3

PREVIOUS RPI FIGURE y 172.0

X 181.3 Minus y 172.0 = (A) 9.3

(A) 9.3 Divided by y 172.0 = (B) 0.0540697

First application for re-registration since 1 February 1999 NO

If yes (B) plus 1.075 = (C)

If no (B) plus 1.05 = (C) 1.1040697

Last registered rent* 4082 (78.50) Multiplied by (C) = 4506.8125
*(exclusive of any variable service charge)

Rounded up to nearest 50 pence = £4507 (87 1/4)

Variable service charge NO

If YES add amount for services

MAXIMUM FAIR RENT = £4507 Per Annum
£86.67 87 1/4 week
+ 375.58 p.w.**Explanatory Note**

1. The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
2. In summary, the formula provides for the maximum fair rent to be calculated by:
 - (a) increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
 - (b) adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).

A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B).

The result is rounded up to the nearest 50 pence.
3. For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Committee's fair rent determination was made.
4. The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.