

Rent Assessment Committee: Reasons for decision.
Rent Act 1977

Address of Premises

8 Joan Nightingale House
Bolnore Road
Haywards Heath
West Sussex RH16 4AB

The Committee members were

Mr B H R Simms FRICS MCI Arb
Mr R A Wilkey FRICS FICPD
Ms J K Morris

1. Background

On 4 September 2006 the landlord tenant applied to the Rent Officer for registration of a fair rent of £490.05 per calendar month for the above property. The rent payable at the time of the application was £235 per calendar month plus service and supplement.

The rent was previously registered at £385.50 per calendar month on 3 December 2004 with effect from the same date following a determination by the Rent Officer.

On 31 October 2006 the Rent Officer registered a fair rent of £421.50 per calendar month including £213.28 in respect of services with effect from 3 December 2006.

By a letter dated 18 December 2006 the landlord 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 2 March 2007 and found it to be in good condition. The property comprises a flat with a bed-sitting room, separate kitchen and shower room with WC. The landlord supplies a small cooker but no other white goods. There are no tenant's improvements to note.

The building is modern and has a communal lounge with its own kitchen, a laundry and a separate bathroom which are available to all residents. A manager is on duty during the day with an emergency call system at other times. There is a lift to the first floor and stair lifts where required.

The registered rent includes a sum for services as listed on the rent register.

3. Evidence

The Committee received a copy of the letter of appeal dated 18 December 2006 which had been sent to the Rent Officer. No other written representations were received either from the landlord or the tenant. Neither party requested a hearing at which oral representations could be made.

In its letter to the Rent Officer the landlord makes reference to the increase in utility costs which are not reflected in the rent registered. The decision will mean that the Fair Rents are substantially less than Assured rents at Nightingale House.

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

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 West Sussex. Having done so it concluded that such a likely market rent would be £600 per calendar month. This rent is the global rent assessed to include all of the services provided at this property.

However, in this flat the landlord has not provided all white goods or carpets and curtains which would be usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £600 per calendar month to allow for these 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 £55 per calendar month.

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

The net market rent for the subject property having made the necessary adjustment is therefore £545 per calendar month including services.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £545 per calendar month inclusive of services.

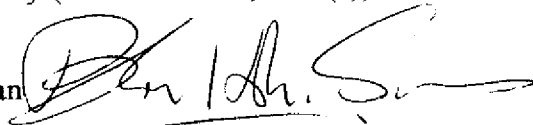
However, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be registered in the present case is the lower sum of £426.50 per calendar month inclusive of services (Details are provided on the back of the decision form). Because the maximum rent payable is capped the Committee is unable to reflect in the Fair Rent any increases in utility costs. The landlord will see that

because of the definition of a Fair Rent in S.70 and because of the capping provisions the Fair Rent will usually be lower than an Assured rent.

Accordingly the sum of £426.50 per calendar month inclusive of services of £213.28 per calendar month will be registered as the Fair Rent with effect from 2 March 2007 being the date of the Committee's decision.

The registered rent is to be entered as NOT variable in accordance with the terms of the tenancy (Rent Act 1977, S.71(4)).

Chairman



Mr B H R Simms FRICS MCI Arb

Dated

5 March 2007
