

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

46 O'Grady Court
Melbourne Avenue
West Ealing
London
W13 9BY

The Committee members were

Mr J M Deaner LLB MPhil
Mrs E Flint DMS FRICS IRRV
Mr T W Sennett MA FCIEH

1. Background

On 14 January 2003 the landlord applied to the rent officer for registration of a fair rent of £115.82 per week for the above property.

The rent payable at the time of the application was £52 per week.

The rent was previously registered on 10 April 2001 with effect from the same date at £82.34 per week following a determination by the rent officer.

On 12 October 2004 the rent officer registered a fair rent of £102.90 per week including £43.90 in respect of services/(variable) with effect from that date.

By a letter dated 14 October 2004 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 16 December 2004 and found it to be in good condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

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

3. Evidence

The Committee received written representations from the tenant and these were copied to the landlord. No written representations were received from the landlord.

A hearing was held on 16 December 2004 at 10 Alfred Place WC1 at which oral representations were made by the tenant. The landlord was not present or represented.

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 West Ealing. Having done so it concluded that such a likely market rent would be £150 per week.

The Committee found that there was substantial scarcity in the locality of Outer London and therefore made a deduction of 20% 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 £120 per week inclusive of £32.84 per week in respect 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 £92.34 per week inclusive of services (Details are provided on the back of the decision form).

Accordingly the sum of £92.34 per week inclusive of services of £32.84 per week will be registered as the fair rent with effect from 16 December 2004 being the date of the Committee's decision.

The registered rent is to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)).

Chairman: J M Deaner

Dated: 16 December 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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