

Rent Assessment Committee: EXTENDED reasons for decision.

Rent Act 1977

Address of Premises

Newland Cottage
Upperthorpe Road
Killamarsh
Sheffield
South Yorkshire
S21 1EQ

The Committee members were

CH: Mrs P. Dhadli BA(hons) Law, BAR at LAW
V: Mr K. G. Bloor FRICS
LM: Mrs. K. Bentley

1. The Subject Property:

The subject property is a detached house circa 1880. It comprises internally of three-bedrooms, bathroom, kitchen/utility. Externally it has a garden, outbuildings and a yard area. There is access through the curtilage of the property to third parties. The property has a separate water meter, mains electricity and no gas. Sewage disposal is via a cess pool. Access to the subject property is off Upperthorpe Road Kilamarsh via an unmade road.

2. Background:

The Tenant of the subject property is Mr. A Couldwell and the Landlord is Mrs. Joyce Windle. The Landlord's agent is Wynne and Co.

The Landlord granted a weekly periodic tenancy to the Tenant on the 31st December 1978. There is no written tenancy agreement. The Landlord states that the tenancy was in respect of a residential property without restriction as to use.

On the 5th August 2006 the *landlord* applied to the rent officer for registration of a fair rent of £150.00 per week for the above property.

The rent payable at the time of the application was £15.00 per week.

The rent was previously registered on 7th October 1987 with effect from *the same date* at £15.00 per week following a determination by *the rent officer*.

On the 4th October 2006 the rent officer registered a fair rent of £30.50 per week with effect from *that date*.

By a letter dated 30th October 2006 the *landlord* objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

3. Inspection

The Committee inspected the property on the 10th January 2007 and 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 following tenant's improvements had been made to the property:

- 1. Double-glazing throughout save for the kitchen window.*
- 2. Solid fuel boiler replacing Park Ray.*
- 3. Central heating with five radiators.*
- 4. Refitted kitchen.*
- 5. Fireplace and fire to lounge.*
- 6. Replaced bathroom suite.*
- 7. Tiling to bathroom.*
- 8. Two ceilings skimmed and plastered.*
- 9. New waste cistern.*
- 10. Other minor improvements.*

4. Evidence

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

Neither party requested a hearing at which oral representations could be made.

5. 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 emphasized:

- (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).

6. 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 Committee's own general*

knowledge of market rent levels in the area of North East Derbyshire Having done so it concluded that such a likely market rent would be £150.00 per week.

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 £150.00 per week 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 £30.00 per week.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £40.00 per week.

The Committee found that there was substantial scarcity in the locality and therefore deducted a further sum of £8.00 per week from the market rent to reflect this element.

This leaves a fair rent for the subject property of £72.00 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £72.00 per week.

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 £30.50 per week (Details are provided on the back of the decision form).

The section 70 fair rent determined by the Committee is below/at the same level as the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect. Details are provided on the back of the decision form.

Accordingly the sum of £30.50 per week *will be* confirmed as the fair rent with effect from 10th January 2007 being the date of the Committee's decision.

Chairman



Dated

15th January 2007
