

Rent Assessment Committee: Reasons for decision.
Rent Act 1977

Address of Premises

23 Countess Mountbatten Court
Canterbury Road
Westgate on Sea
Kent
CT8 8NQ

The Committee members were

Mr. R. Norman (Chairman)
Mr. I.W. Collins FRICS IRRV
Ms. L. Farrier

1. Background

On 28th May 2004 the landlord applied to the rent officer for registration of a fair rent of £49.37 per week for the above property plus £20.31 in respect of services.

The rent payable at the time of the application was £59.72 per week including services.

The rent was previously registered on 25th January 2002 with effect from the same date at £64.42 per week including £26.42 per week in respect of services (variable) following a determination by the rent officer.

On 23rd July 2004 the rent officer registered a fair rent of £63.31 per week including £20.31 per week in respect of services (variable) with effect from that date.

By a letter dated 12th 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 20th October 2004 and found it to be in good condition. It was noted that the tenant had provided the carpets and curtains in her flat.

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

3. Evidence

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

It was noted that the landlord's representations contained in a letter dated 27th August 2004 appeared to be based on a misunderstanding. The rent of £64.42 registered on 25th January 2002 did include the sum of £26.42 in respect of services and therefore, although the Rent Officer on 23rd July 2004 did not increase the rent to the level requested by the landlord, the net rent was in fact increased.

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 Committee's own general knowledge of market rent levels in the area of East Kent. Having done so it concluded that such a likely market rent would be £60 per week.

However, to allow for the tenant's provision of carpets and curtains it was necessary to make a deduction of £2 per week.

The Committee are aware that in East Kent there are waiting lists of people who wish to live in sheltered accommodation. The Committee found that there was substantial scarcity of such accommodation in the locality and therefore deducted a further sum of £6 from the market rent to reflect this element.

This leaves a net market rent for the subject property of £52 per week to which the sum of £20.31 in respect of services should be added.

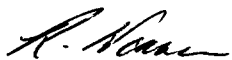
6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £72.31 per week inclusive of £20.31 per week in respect of services (variable).

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 £63.31 per week inclusive of services. Details are provided on the back of the decision form.

Accordingly the sum of £63.31 per week inclusive of services of £20.31 per week will be confirmed as the fair rent with effect from 20th October 2004 being the date of the Committee's decision.

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

Chairman 

Dated 20.10.04