

EASTERN RENT ASSESSMENT PANEL

STATEMENT OF REASONS FOR THE DECISION OF THE COMMITTEE WHICH MET ON 26th JULY 2005 TO DETERMINE A FAIR RENT IN RESPECT OF 32 MILL ROAD, LODE, CAMBRIDGESHIRE CB5 9EN

File Reference No.: CAM/12UC/F77/2005/0064

Landlord: Mr GH Aves, 38 Mill Road, Lode, Cambridgeshire

Tenant: Mr PC Homes

Existing Rent: £884.00 per annum equivalent to £17.00 per week

Rent Proposed by Landlords: £800.00 per month equivalent to £185.00 week

Rent Determined by Rent Officer: £39.00 per week capped under the Rent Acts (Maximum Fair Rent) Order (Uncapped rent £105.00 per week)

Rent Determined by Committee: £97.00 per week exempt from cap under the Rent Acts (Maximum Fair Rent) Order

Members of the Committee: Mr JR Morris (Chairman)
Miss M Krisko BSc (Est Man) BA FRICS
Mr B Tyers

Clerk to the Committee: Ms R McKay LLB

The Tenancy:

The tenancy appears to be a statutory weekly periodic tenancy, which commenced in 1977. Section 11 of the Landlord and Tenant Act 1985 appears to apply in respect of the Landlord's obligations and according to the Rent Register the Tenant is responsible for internal decoration.

The Application:

The Landlord by a notice in the prescribed form received by the Rent Service 14th March 2005 proposed a new rent of £800.00 per calendar month, equivalent to £185.00 week. On the 5th May 2005 the Rent Officer registered a rent effective from that date of £39.00 per week, which was capped under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £105.00 per week. On 2nd June 2005 the Landlord applied to the Rent Assessment Panel.

The Property:

The Property is a semi-detached two-storey house constructed in 1780 of rendered elevations under a pitched tiled roof. The Committee were unable to obtain access for an internal inspection and so had to rely on the Rent Register, which describes the Property as comprising an entrance hall, front sitting room, kitchen/dining room, wc and four bedrooms. Outside there are stores and gardens. There is no central heating as let.

The Committee added to this the information provided by the Rent Officer (and confirmed in the Tenant's and Landlord's representations) which notes that there is a ground floor shower room, space and water heating by a gas fired-central heating system installed by the Tenant, including the gas supply. The Property has main electricity, gas, water and drainage. The Property is let unfurnished. The Property is in a village location.

Condition:

The exterior of the property is in good condition. The Landlord states in his representations that the Property was modernised in 1976 and that the Tenant has re-fitted the kitchen and bathroom which the Rent Officer notes would other wise be dated. The Tenant said he had undertaken repairs including:

- Replacing some rotten skirting boards and some rotten floorboards in the attic, bedroom and front hall;
- Laying board over broken floorboards in living room, replaced broken tiles with floorboards in back hall;

- Supplying two suspended ceilings and dry lined dining room wall to remedy crumbling plaster
- Fitting new front door and replacing damaged doors (rent free period?) and stair rail and shelves in the airing cupboard.

The Tenant also said he had contributed to the cost of garden fencing and replaced the garden shed. In addition the Tenant says that he has also undertaken some improvements including fitted wardrobes and a security bolt. There are no white goods or floor coverings provided.

Law:

Attached to this Statement of Reasons is a resumé of the law applied by the Committee.

Open Market Rent

The Landlord referred to a public sector property in Teversham let for £315.00 per month and 11 Mill Street, Lode which is a privately let two bedroom Victorian semidetached house let for £600 per month. The Committee therefore used the experience of its members and determined that a market rent for the subject property, taking into account its character and location, in good condition with double glazing, full central heating, modern kitchen and bathroom, and let with carpets, curtains and white goods on an Assured Shorthold Tenancy would be £180.00 per week. The Committee considered that a global deduction of £72.00 per week should be made in respect of the subject property to take account of what would be dated kitchen and bathroom following last modernisation by Landlord in 1976, the want of repair and the lack of central heating if it had not been for the works carried out by the Tenant and the lack of carpets, curtains and white goods. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Committee's estimate of the amount by which the rent would have to be reduced to attract a tenant. Tenant's improvements of fitted wardrobes and a security bolt were disregarded.

Scarcity

It was decided that there is substantial scarcity of "... similar dwelling-houses in the locality..." in this case is Cambridgeshire and adjoining parts of Suffolk and Norfolk that are available for letting and a deduction would be made to reflect this of 10%


Committee's Calculations:

Open Market Rent:	£180.00 per week
Less global deduction	<u>£72.00</u>
	£108.00
Less Scarcity 10%	<u>£10.80</u>
	£97.20 per week
'Uncapped' fair rent say £97.00 per week	

The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Committee which ever is the lower. The capped Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. However Paragraph 2(7) of the Order provides that capping does not apply if "because of a change in the condition of the dwelling house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for a registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed".

The Landlord submitted that the following works had been undertaken: roof repairs of new flashings, new boiler, new timber framed double glazed window to kitchen, new window sills and new steps to rear door, re-pointing of chimney, replacement of bricks and re-plastering to gable end and repairs to landing and pantry since the last registration and that these increased the rent to bring it within the exemption. In this case 15% of the previous registered rent of £17.00 per week would be £2.20. Without the Landlord's repairs the Committee would have made an additional deduction of £9.00. Therefore the rent assessed as a result of the repairs and improvements exceeds the previous rent registered by at least 15%. Therefore the rent is exempt from the 'capping' provisions of the Rent Acts (Maximum Fair Rent) Order 1999 and the uncapped rent falls to be registered.

FAIR RENT = £97.00 per week

.....JR Morris, Chairman

Important Note:

This is a summary of the Committee's reasons for its decision. Should you require more detailed reasons, they can be supplied but only if a written request for such reasons is received by the Panel Office within 21 days form the receipt of this document. The papers will then be returned to the Chair for such detailed reasons to be prepared.

Caution: The Committee inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.

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Members of the Committee: Mr JR Morris (Chairman)
Miss M Krisko BSc (Est Man) BA FRICS
Mr B Tyers

Clerk to the Committee: Ms R McKay LLB

Note: The Tenant and Landlord requested a full Statement of Reasons. The Committee can only consider evidence before it at the date of its determination therefore issues raised in correspondence after this date e.g. in the letter requesting full reasons, cannot be considered.

THE PREMISES

1. The Subject Property is a semi-detached two-storey house constructed in 1780 of rendered elevations under a pitched tiled roof. The Committee were unable to obtain access for an internal inspection and so had to rely on the Rent Register

Accommodation

The Rent Register describes the property as comprising an entrance hall, front sitting room, kitchen/dining room, wc and four bedrooms. Outside there are stores and gardens. The Committee added to this the information provided by the Rent Officer which is confirmed in the Tenant's and Landlord's representations that there is a ground floor shower room,

Services

According to the Rent Register there is no central heating as let. The Committee added to this the information provided by the Rent Officer, which is confirmed in the Tenant and Landlord's representations that space and water heating are by a gas fired-central heating system installed by the Tenant, including the gas supply and that the Subject Property has main electricity, gas, water and drainage.

Furnishing

The Subject Property is let unfurnished. There are no white goods or floor coverings provided.

Location

The Subject Property is in a village location.

THE TENANCY

2. The tenancy appears to be a statutory weekly periodic tenancy, which commenced in 1977. Section 11 of the Landlord and Tenant Act 1985 appears to apply in respect of the Landlord's

obligations and according to the Rent Register the Tenant is responsible for internal decoration.

THE APPLICATION

3. The Landlord by a notice in the prescribed form received by the Rent Service on 14th March 2005 proposed a new rent of £800.00 per calendar month, equivalent to £185.00 week. On the 5th May 2005 the Rent Officer registered a rent effective from that date of £39.00 per week, which was capped under the Rent Acts (Maximum Fair Rent) Order 1999, the uncapped rent being £105.00 per week. On 2nd June 2005 the Landlord applied to the Rent Assessment Panel. The parties requested that the matter be dealt with by written representations only.

INSPECTION

4. The Tenant was informed by a letter date 13th July 2005 that the Committee would inspect the Subject Property on the 26th July at 12.00 noon. However notwithstanding this no answer was received when the Committee attended at that time and therefore only an external inspection could be made. The exterior of the Subject Property appeared to be in good condition. In particular the Committee noted what appeared to be recent works having been carried out in the form of roof repairs of new flashings, re-pointing of the chimney and replacement of bricks to the gable ends.

THE LANDLORD'S CASE

5. The Landlord made written representations and stated that the Subject Property was modernised in 1976. The Tenant re-fitted the kitchen within 18 months of moving in. The Tenant removed the bath because he chose to have a shower instead. The Tenant installed gas central heating in preference to solid fuel. Gas was not available in the village when the Subject Property was modernised in 1976. The Landlord said he is now liable for a gas certificate and maintenance of the gas boiler.
6. The Landlord stated that the Tenant was given a 3-month rent-free period to allow for any want of repair due to the previous Tenant.
7. The Landlord commented that alterations including a kitchen divider, suspended ceilings, dry lining of interior walls extension of the electrical and water installations were made without his consent and does not know to what standard the works have been carried out as he has not been given an opportunity to inspect. The Subject Property is an old beer house and should retain its character.
8. The Landlord noted that an adjustment had been made in the rent as assessed by the Rent officer for the Tenant's improvements but not the Landlord's works. The Landlord also did not understand why an amount had been taken for scarcity and why the rent was capped.
9. The Landlord referred to a public sector property in Teversham let for £315.00 per month. The Landlord also submitted rental evidence in the form of a statement for rent by the managing agent for 11 Mill Road, Lode. This is a privately let two bedroom Victorian semidetached house. The statement showed that the property was let at £600.00 per calendar month on the 7th June 2005.

THE TENANT'S CASE

10. In written representations the Tenant said he had undertaken works as follows:
 - Installation of gas central heating to six radiators whereas previously there had only been a Parkray back boiler in the kitchen.
 - Replacement of some rotten skirting boards and architrave
 - Supplying two suspended ceilings to cover crumbling plaster

- Providing floor in lower attic which was used for storage only
- Building fitted wardrobes in 3 bedrooms
- Repairing broken shelves in airing cupboard
- Repairing cracked toilet seat
- Replacing cracked and chipped bathroom suite
- Supplying and fitting new front door
- Paying half the cost for boundary fence
- Replacing 10 doors damaged by previous tenant
- Installing new sink and kitchen units
- Dry lining dining room wall to cover crumbling plaster
- Covering floorboards in front room with hard board to prevent draughts
- Replacing rotten floor boards in bedroom and front hall
- Replacing broken tiles in back hall with wood flooring
- Fitting lock on backdoor
- Replacing stair handrail
- Fitting cupboard to cover pipe work in toilet
- Replacing broken catches to windows
- Tiling kitchen, bathroom and toilet
- Installing extractor fan in bathroom
- Replacing shed

LAW

11. Attached to this Statement of Reasons is a resumé of the law applied by the Committee.

DECISION

12. The assessment of a Fair Rent starts with an assessment of the open market rent. The Committee noted the Landlord's evidence of comparable rental values however the house in Teversham is a public sector property and so not let at an open market rent. The Committee viewed the exterior of 11 Mill Road, Lode in passing but considered that it was not a direct comparable with the Subject Property and so found the rental evidence to be only of general guidance to rental values in the area.
13. The Committee using the knowledge and experience of its members and having regard to the evidence as submitted by the parties and that provided by the Rent register and Rent Officer's notes are of the opinion that the open market value of the Subject Property taking in to account its character and location in good condition with full central heating, double glazing, modern kitchen and bathroom, and with carpets, curtains and white goods let on an Assured Shorthold tenancy would be £180 per week (£780 per calendar month).
14. The Committee assess a rent for a property as let by the Landlord as at the day of inspection and disregarding the Tenant's improvements. The Subject Property as let by the Landlord did not have central heating. Although this has since been installed by the Tenant nevertheless as a tenant's improvement it is to be disregarded. The Landlord last refurbished the Subject Property in 1976 and a kitchen and bathroom installed 29 years ago would now be dated. A Tenant's replacement of these facilities including the extractor fan and tiling must be disregarded as a tenant's improvement. The laying of flooring in the lower attic to provide storage and fitting of wardrobes in 3 bedrooms were also disregarded.
15. The Landlord stated that he had given a 3-month rent-free period to allow for disrepair by the previous tenant and the present Tenant did not refute this. The Committee therefore accepted that the replacement by the present tenant of the 10 doors damaged by the previous tenant was allowed for by the rent-free period. Over a period of 28 years certain items repaired by the Tenant were considered by the Committee to be fair wear and tear such as the replacement of the cracked toilet seat. Other works carried out by the tenant were considered to be part of the obligation to decorate internally such as covering pipe work.


16. The Tenant submitted in evidence that he had undertaken some repair works and the Landlord did not refute this evidence. The Committee therefore made an allowance for want of repair by the Landlord including the need to replace the front door, some rotten skirting boards, floor boards and architrave and to remedy deteriorating plaster and to fit a new lock on the backdoor, replace the stair handrail and broken catches to windows.
17. The Committee made an allowance for the Subject Property being let with floor coverings and considered that that this accounted for some of the work carried out by the Tenant to the flooring such as covering the front room floor with hard board and replacing broken tiles in back hall with wood flooring.
18. The Committee having disregarded the Tenant's improvements, allowing for fair wear and tear and the remedial works for which a rent-free period was given, considered that a global deduction of £72.00 per week (40%) should be made. This deduction is to take account of the lack of central heating, what would be a dated kitchen and bathroom following last modernisation by Landlord in 1976, the want of repair referred to in paragraph 16 and the lack of carpets, curtains and white goods. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Committee's estimate of the amount by which the rent would have to be reduced to attract a tenant.
19. Where a tenancy comes within the provisions of the Rent Act 1977 the Committee is required to make a deduction from the market rent for the Subject Property where it finds that the rent is higher due to scarcity. Scarcity where found is usually assessed as a percentage. The Committee decided that there is substantial scarcity of "... similar dwelling houses in the locality..." available for letting and a deduction would be made to reflect this. The matters taken into account by the Committee were:-
 - a) The Committee interpreted the "locality" for scarcity purposes as being Cambridgeshire and adjoining parts of Suffolk and Norfolk i.e. a sufficiently large area to eliminate the effect of any localised amenity, which would, in itself, tend to increase or decrease rent.
 - b) The members of the Committee have many years of experience of the residential letting market between them and that experience leads them to the view that demand consistently exceeds supply for properties of the same type as the Subject Property in the locality defined above.
 - c) House prices in the area have risen steeply recently, which could be an indicator of increased demand for housing generally.
20. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for houses like the Subject Property in the private sector or the exact number of such properties available. It can only be a judgment based on the years of experience of members of the Committee. That combined experience leads the Committee to the view that demand is particularly high for houses similar to the Subject Property and the scarcity deduction is assessed at 10%.
21. The Committee also considered whether there should be an addition to the fair rent to reflect the fact that, in theory, tenants may be prepared to pay more to obtain the less onerous decoration covenants which apply to assured shorthold tenancies. However there was no evidence upon which the Committee could rely to make such a finding. In any event, it is the Committee's experience that assured shorthold tenants who stay in a property for any length of time do assume responsibility for internal decoration.

22. As to whether a tenant would pay more for obtaining security of tenure of a regulated tenancy as opposed to the lack of security which came with an assured shorthold tenancy, there was no evidence available to sustain such a proposition.
23. The Committee also considered whether it could be said that in theory, landlords build in an additional figure for the voids and letting fees which are inevitably incurred in assured shorthold lettings which would not be incurred with a regulated tenancy. Once again there was no evidence upon which the Committee could rely to reach such a decision.
24. Finally the Committee considered the application of the provisions of the Rent Acts (Maximum Fair Rent) Order 1999 which require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Committee whichever is the lower. The capped Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. However Paragraph 2(7) of the Order provides that capping does not apply if "because of a change in the condition of the dwelling house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for a registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed".
25. The Landlord submitted that he had undertaken the following work since the last registration and that these increased the rent to bring it within the exemption:
- roof repairs of new flashings,
 - new boiler,
 - new timber framed double glazed window to kitchen,
 - new window sills and new steps to rear door,
 - re-pointing of chimney,
 - replacement bricks to the gable end
 - re-plastering to gable end and
 - repairs to landing and pantry.
- The Committee had seen the roof repairs, re-pointing to the chimney and replacement brick to the gable end. The items were also referred to in the Landlord's application for a registered rent and in the Rent Officer's notes and were not refuted by the Tenant in his written representations.
26. In this case 15% of the previous registered rent of £17.00 per week would be £2.20. The Committee considers that the rent increase attributable to the Landlord's repairs is £9.00 per week. Therefore the rent assessed as a result of the repairs and improvements exceeds the previous rent registered by at least 15%. Therefore the rent is exempt from the 'capping' provisions of the Rent Acts (Maximum Fair Rent) Order 1999 and the uncapped rent falls to be registered.

COMMITTEE'S CALCULATIONS

27. Open Market Rent:	£180.00 per week
Less global deduction	<u>£72.00</u>
	£108.00
Less Scarcity 10%	<u>£10.80</u>
	£97.20 per week
'Uncapped' fair rent say £97.00 per week	

FAIR RENT = £97.00 per week

 JR Morris, Chairman

Caution: The Committee inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this statement must not be relied upon as a guide to the structural or other condition of the property.