

Rent Assessment Committee: Summary reasons for decision. Rent Act 1977

Address of Premises

8,13,86 & 87 Spencer Road,
59, 69 & 77 Foxhole Road,
42 Gibson Road,
Paignton

The Committee members were

T E Dickinson BSc FRICS (Chairman)
R D Yeomans

1. Background

On 12th January 2005 the *landlords* applied to the rent officer for registration of fair rents of £ 100.00 per week for the above properties.

The rents were previously registered on 10th May 1991 with effect from the same date at £ 40.00 per week following a determination by the rent officer.

On 7th February 2005 the rent officer registered a capped fair rent of £ 60.00 per week (£100 per week uncapped) with effect from that date.

By a letter dated 3rd March 2005 the Landlords objected to the rents determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection

The Committee inspected the properties on Wednesday 27th April 2005 and found them to be in *fair* condition as described more particularly in the Rent Officer's survey sheets which had been copied to the parties. Some properties exhibited signs of black moulding due to condensation.

Generally tenant's improvements were found to be fairly similar including provision of additional power points in most of the properties, floor finishes including some laminate floors, electric showers, some tiled finishes, fire places and gas fires, light fittings including wall lights, built-in wardrobes, garden sheds and improvements to

gardens and contributions to some materials used. We additionally noted that some tenants had contributed to the cost of some internal doors (materials only).

3. Evidence

The Committee received written representations from the landlords and some tenants and these were copied to the respective parties.

The hearing was held on 27th April 2005 at Torquay at which oral representations were made by/on behalf of the landlord and tenant.

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).

The Committee also has to have regard to the Rent Acts (maximum fair rent) order 1999 where applicable. Most objections to and determinations of registered rents are now subject to the order, which limits the amount of rent that can be charged by linking increases to the retail price index. It is the duty of the Rent Assessment Committee to arrive at the fair rent under Section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules set out in the order. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rents for the subject properties.

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 landlord and the Committee's own general knowledge* of market rent levels in the area of Torbay and South Devon. Having done so it concluded that such a likely market rent would be £115.00 per week.

However, the actual property is not in the condition considered usual for a modern letting at a market rent (usually Assured Shorthold Tenancies). Therefore, it was first necessary to adjust that hypothetical rent of £115.00 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) and to allow for the tenant's improvements. The Committee considered that this required a deduction of £25.00 per week.

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

This leaves a net market rent for the subject property of £90.00 per week.

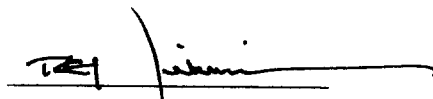
6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £90.00 per week.

The section 70 fair rent determined by the Committee is exempt from the Rent Acts (maximum Fair Rents) order 1999 provisions due to the substantial improvements carried out since the last registration in 1991.

Accordingly the sum of £90.00 per week will be registered as the fair rent with effect from 27th April 2005 being the date of the Committee's decision.

Chairman


T E Dickinson BSc FRICS

Dated

27TH April 2005

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 request to the committee clerk at the Panel Office which must be made within 21 days from the date of issue of this document.