

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

Address of Premises

29 Lord Cornwallis Court
Downs Road
Folkestone
Kent CT19 5PY

The Committee members were

Mr B J C Mire BSc (Est Man) FRICS
Mr R Athow FRICS MIRPM
Mr T J Wakelin

1. Background

On 11 May 2004 the landlord applied to the rent officer for registration of a fair rent of £60.95 per week including £16.87 in respect of services for the above property.

The rent payable at the time of the application was £66.84 per week including £16.87 for services.

The rent was previously registered on 18 January 2002 with effect from the same date at £70 per week including £20.03 for services following a determination by the rent officer.

On 5 July 2004 the rent officer registered a fair rent of £71 per week including £16.87 in respect of services (variable) with effect from that date.

By a letter dated 27 July 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 21 October 2004 and found it to be in good condition with a replacement kitchen being fitted to include an electric hob, oven and cooker hood. The Rent Officer's survey sheet which had been copied to the parties accurately described the accommodation but failed to mention that replacement PVCu windows had been provided some years ago.

3. Evidence

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

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 £87.50 per week.

However, the actual property is not in the condition considered usual for a modern letting at a market rent as the tenant had provided carpets and curtains. Therefore it was first necessary to adjust that hypothetical rent 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 £2 per week.

Furthermore, to allow for the landlord's decorating liability it was necessary to make a further deduction of £2 per week.

The Committee found that there was substantial scarcity in the locality and therefore deducted a further sum of £7.50 per week from the market rent to reflect this element.

This leaves a net market rent for the subject property of £76 per week including the sum of £16.87 in respect of services, ie £59.13 per week excluding services.

6. Decision

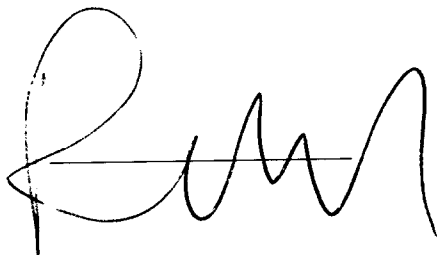
The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £76 per week inclusive of £16.87 per week in respect of services.

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 £73.87 per week inclusive of services (Details are provided on the back of the decision form).

Accordingly the sum of £73.87 per week inclusive of services of £16.87 per week will be registered as the fair rent with effect from 21 October 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

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by several loops and a final vertical stroke.

Dated 27 October 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 request to the committee clerk at the Panel Office which must be made within 21 days from the date of issue of this document.