

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

Address of Premises

5 Lexby Road
Totton
Southampton SO40 9HB

The Committee members were

Mr M R Horton FRICS (Chairman)
Mr P D Turner-Powell FRICS
Mr R D Yeomans

1. Background

On 7 November 2003 the landlord applied to the rent officer for registration of a fair rent of £1,050 per calendar month for the above property.

The rent payable at the time of the application was £350 per calendar month.

The rent was previously registered on 14 January 2002 with effect from the same date at £350 per calendar month following a determination by a rent assessment committee.

On 13 January 2004 the rent officer registered a fair rent of £386.50 per calendar month with effect from 14 January 2004.

By a letter dated 20 January 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 6 April 2004 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. Majority of kitchen fitments
2. Erection of garage
3. Electrical installation

4. Construction of conservatory
5. Improvements to outside wc.
6. Wall tiling and shower fitment to bathroom.

3. Evidence

The Committee received written representations from the landlord and these were copied to the parties. No written representations were received from 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 South Hampshire. Having done so it concluded that such a likely market rent would be £585.00 per calendar month.

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 £585.00 per calendar month 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 £195.00 per calendar month, this figure to include allowance for tenant's improvements. (See attached schedule of details).

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

In considering the matter of scarcity the Committee looked at the broad area lying south of Winchester, east of Lyndhurst and west of the Hamble river.

This leaves a net market rent for the subject property of £390.00 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £390.00 per calendar month.

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 £389.00 per calendar month.

Accordingly the sum of £389.00 per calendar month will be registered as the fair rent with effect from 6 April 2004 being the date of the Committee's decision.

(signed)

Chairman

M R HORTON

Dated 6 April 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.

SCHEDULE COMPRISING DETAILS OF VALUATION

Open market rental value. (As defined in the Reasons) £585.00 p.c.m.

Open market rent per week £135.00

Less adjustments (per week)

1. Tenant's internal repairing obligations	£ 8.00
2. No basic furnishings e.g. carpets, curtains, cooker	£ 8.00
3. Tenant's kitchen and bathroom improvements, tenant's electrical installation and other improvements	£21.00
4. Poor condition of windows, external paintwork and other minor disrepair.	£ 8.00
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	£ 45.00 p.w.
Net rent per week	<u>£ 90.00</u>