

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

**Address of Premises  
were**

FLAT 1, 13 BERROW ROAD,  
BURNHAM ON SEA  
SOMERSET, TA8 2EX

**The Committee members**

MR T D GEORGE, (CHAIRMAN)  
MRS M HODGE BSc (Hons) MRICS  
MR J S McALLISTER FRICS

**1. Background**

On the 25 November 2005 the landlord, Mr M Stradling, applied to the rent officer for registration of a fair rent of £89.50 per week for the above property.

The rent payable at the time of the application was £65.00 per week.

The rent was previously registered on 26 November 2003 with effect from the 6 January 2004 at £65.00 per week following a determination by the rent officer.

On the 19 December 2005 the rent officer registered a fair rent of £72.50 per week with effect from 6 January 2006.

By an undated letter received by the Rent Officer on 29 December 2005 the tenant, Mrs Hayward objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee. Mrs Hayward by an undated letter received by the Rent Officer on the 16 January 2006 requested the withdrawal of her objection. The Rent Officer forwarded Mrs Hayward's letter to the Southern Rent Assessment Panel on 18 January 2006 and it was received there on 19 January 2006. In the interim, the Landlord Mr Stradling also objected to the registered rent and did not consent to the application being withdrawn.

**2. Inspection**

The Committee inspected the property on 28 February 2006 and found it to be in fairly poor condition for its age and character as described more particularly in the Rent Officer's survey sheet, which had been copied to the parties.

The Committee was able to inspect the property internally but the tenant, Mrs Hayward would not permit the landlord, Mr Stradling to do so.

### **3. Evidence**

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

Mr Stradling, the landlord, requested a hearing at which oral representations could be made. Mrs Hayward, the tenant, was asked if she wanted to attend but she declined.

A hearing was held on 28 February 2006 in Flat 4, 13 Berrow Road, at which oral representations were made by the landlord. The tenant was not present or represented.

The Landlord informed the Committee that he had spent a total of about £3270 on the roof insulation and the repair and decoration of the shared hall stairway and landing since the last registration of Fair Rent on 26 November 2005. He also stated that he does not charge the tenant for the upkeep, etc., of the shared hall, staircase and landing. (The Committee noticed that the Rent Officer had not identified an amount contributable to services on the registration forms dated 26 November 2003 and 19 December 2005. The Committee also referred to the Tenancy Agreement dated the 20 day of September 1984 previously handed to the Committee by the Tenant and which the Landlord acknowledged to exist.

### **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 emphasized

- (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 rent for the 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 evidence supplied by the landlord and the Committee's own general knowledge of market rent levels in

the area of North Somerset. Having done so it concluded that such a likely market rent would be £375 per calendar month (£86.54 per week).

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 £375 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 £92 per calendar month (£21.23 per week). This total is made up as follows:

	£
• Tenant's decoration liability	20
• No white goods	15
• No carpets and curtains	10
• Dated kitchen	15
• Dated bathroom	12
• No central heating	<u>20</u>
Total	<u>£ 92</u> per cal month (£21.23 per wk)

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 £283 per calendar month (£65.31 - say, £65 per week) excluding council tax.

## **6. Decision**


The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £65 per week excluding council tax.

The section 70 fair rent determined by the Committee is below level as the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order

1999 and accordingly that rent limit has no effect. Details are provided on the back of the decision form.

**Accordingly the sum of £65 per week will be registered as the fair rent with effect from 28 February 2006 being the date of the Committee's decision.**

Chairman

  
T D George

Dated

<sup>th</sup>  
16 March 2006

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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.