

Southern Rent Assessment Panel

File Ref. No. CHI/00HD/F77/2006/00H1

Rent Assessment Committee: Summary reasons for decision

Rent Act 1977

Address of Premises

The Committee members were

The Gables
Old Gloucester Road
Winterbourne
Bristol
BS36 1RT

Mr. J. S. McAllister FRICS
(Chartered Valuation Surveyor - Chairman)
Mr. M. J. Ayres FRICS
(Chartered Valuation Surveyor)

1. Background

On the 24th March 2006, the landlord, Mr. H. M. Irish, applied to the Rent Officer for registration of a fair rent of £565 per month for the above property.

The rent at the time of the application was £515 per month, the previous registered rent being £513 per calendar month registered on the 5th January 2004, and effective from the 28th January 2004, following a determination by the Rent Officer.

On the 15th May 2006, the Rent Officer registered a fair rent of £532.50 per calendar month with effect from that date.

By an undated letter received at the Committee office on the 25th May 2006, Mr. M. T. Spencer, the tenant, 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 the 26th June 2006 and found it appeared to be in fair condition for its age and character.

The property was a detached house, apparently built in the 1960s and traditionally constructed of natural stone walls under a tiled roof.

It had three bedrooms, two reception rooms, kitchen, bathroom and cloakroom. There was a partial solid fuel central heating system and mains water and electricity were connected with drainage to a septic tank. Outside there was a single garage of matching construction with a utility room at the rear and there were gardens and grounds of approximately a quarter of an acre.

The tenant had carried out various improvements including refitting the kitchen about ten years ago and providing a new wood burning stove in the dining room.

The property was in a very rural location, about two miles north of the village of Winterbourne, which had local shops and other amenities.

Mr. Spencer also informed the Committee that the property was the subject of an agricultural tie.

3. Evidence

The Committee received brief written representations from the tenant, and these were copied to the landlord. No written representations were received from the landlord.

4. The law

When determining a fair rent the Committee, in accordance with the Rent Act 1977 Section 70, have regard to all the circumstances including the age, location and state of repair of the property. It also disregards 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 comparable. (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 subject property.

5. Valuation

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 it 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 Gloucestershire and North Bristol. Having done so it concluded that such a likely market rent would be £750 per month. The Committee then made a deduction to reflect the restriction of the agricultural planning tie, i.e. they accepted the tenant's evidence as to its existence, having received no contrary evidence from the landlord. This restricts occupants of the property to those employed or retired from agricultural operations. Accordingly the Committee made a deduction of £75 per month resulting in an adjusted market rental value of £675 per calendar month. Furthermore the actual property is not in the condition considered usual for a modern letting at a market rent (normally assured shorthold tenancies). Therefore, it was first necessary to adjust the hypothetical market rent of £675 per 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 the predecessor in title). The Committee considered that this required a total reduction of £135 per month, calculated as follows:-

1. Tenant's liability to decorate internally - £35 per month.
2. Lack of carpets and curtains - £15 per month.
3. Lack of "white goods" (fridge, cooker) - £15 per month.
4. Partial central heating system only - £30 per month.
5. Dated kitchen and bathroom - £40 per month.

This leaves a net market rent for the subject property of £540 per month. The above rental values do not take into account the tenant's improvements.

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

6. Decision

The fair rent initially determined by the Committee, for the purposes of Section 70 was accordingly £540 per month, exclusive of Council Tax.

The Section 70 fair rent determined by the Committee is below 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 £540 per calendar month, exclusive of Council Tax will be registered as the fair rent with effect from the 26th June 2006 being the date of the Committee's decision.



CHAIRMAN

10th July 2006.