

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

Address of Premises

Bank House,
High Street
Newnham-on-Severn
Glos. GL14 1BB

The Committee members were

Mr D.R.Hebblethwaite BA
Mr I.R.Perry FRICS
Mr P.E.Smith BSc FRICS IRRV

1. Background

On 01.11.02 the landlord applied to the rent officer for registration of a fair rent of £700.00. per month for the above property.

The rent payable at the time of the application was £4200.00 per annum

The rent was previously registered on 18 January 1999.with effect from the same date at £4200.00.per annum. following a determination by the rent officer.

On 19 December 2002 the rent officer registered a fair rent of £4888.00 per annum with effect from that date

By a letter dated 6 January 2003 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 10 April 2003 and found it to be in good 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.

Kitchen fittings

Partial central heating

3. Evidence

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

A hearing was held on 10 April 2003 in the property at which oral representations were made by 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).

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 parties and the Committee's own general knowledge of market rent levels in the area of Forest of Dean. Having done so it concluded that such a likely market rent would be £700.00 per 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 £700.00 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 any predecessor in title). The Committee considered that this required a deduction of £80.00 per month

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £70.00 per month

The Committee found that there was substantial scarcity in the locality and therefore deducted a further sum of £70.00 per month from the market rent to reflect this element.

This leaves a net market rent for the subject property of £480.00 per month

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £ 480.00 per 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 £410.50 per month

Accordingly the sum of £410.50 per month will be registered as the fair rent with effect from 10 April 2003 being the date of the Committee's decision.

Chairman

Daniel Hehthmont

Dated

28 04 03

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.

SOUTHERN RENT ASSESSMENT PANEL

Rent Assessment Committee: Full Reasons for Decision

Rent Act 1977

File ref. CHI/23UD/F77/2003/0042

Re. Bank House, High Street, Newnham-on-Severn, Glos. GL14 1BB

Committee Members:
Mr. D.R.Hebblethwaite (Chairman)
Mr. I.R.Perry FRICS
Mr. P.E.Smith BSc FRICS IRRV

NOTE

Reference is made in this document to the Summary Reasons for Decision dated 28 April 2003 ("the Summary Reasons"). In particular the contents of sections 1 to 4 inclusive of the Summary Reasons are not repeated though they may be amplified as appropriate.

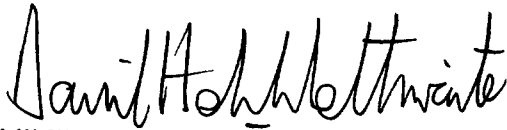
1. At the hearing Mr. Haines represented the Landlord; the Tenant was represented by his daughters, Mrs. T.Powell, Mrs S.Merrett and Mrs S.Williams with Mrs. Cowan from the CAB.
2. Mr. Haines stated that the landlord was a property owning company and that the property was large. "Flat" was wrong terminology. It was a large maisonette. He produced a list from an agent in the area but there was no comparable. 1 or 2 beds were achieving £350.00 per month, bigger more. There was no like for like. He thought the rent should be £1000.00 plus. He produced the tenancy agreement dated 5 October 1983 showing the tenant liable for internal repairs.
3. Mrs. Powell said her parents had lived at the property for 25 years, with an increase every 2 years and now the landlord wanted a 100% increase. The property was cold since the bank (on the ground floor) closed. She referred to disrepair of windows. One window was partly done but the weights in the sash were not adjusted correctly. A window at the back had death watch beetle and there was damp in a cill. There was a complaint of lack of/delay in response by the landlord which Mr. Haines denied. There were no comparable properties.
4. It was clarified that the garden and garage were not included in the lease. Tenant's improvements were the kitchen units and central heating.
5. Turning to the town, Mr. Haines stated that it had a grocery, pharmacy, post office, school and pubs. The tenant's daughters stated that the property was on a main road and that sometimes big lorries pass.
6. Both sides submitted that there were no similar properties.

7. The committee proceeded to deliberation, adopting the Forest of Dean as the area to look for comparables and for the consideration of scarcity. Two houses for rent were noted, one at Micheldean and a farmhouse at Longhope, with respective asking rents of £700.00 and £750.00 per month. Although the property comprised a large maisonette there were technically shared facilities on the ground floor. The condition of the property was generally good, subject to the disrepair to some windows and the lack of central heating – that on the first floor was provided by the tenant and there was none on the second floor.

8. The committee using its expertise decided that the market rent was £700.00 per calendar month.

9. The committee went on to consider whether the rent should be adjusted in accordance with the Act. For the defects referred to in para. 7 £80.00 was deducted and for the tenant's improvements £70.00. It was then decided that there was in the Forest of Dean a significant shortage of similar properties available for letting on similar terms other than as to rent, that is "scarcity", and a further £70.00 was deducted. This resulted in a net figure of £480.00 per calendar month.

10. The Rent Acts (Maximum Fair Rent) Order 1999 applies in this case. A calculation under that Order produced a registered fair rent of the lower figure of £410.50 per calendar month.

Chairman... ..


Date... ..
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