

**SOUTHERN  
RENT ASSESSMENT PANEL & TRIBUNAL**

Statement of Reasons  
for the Decision by a Committee of the Panel upon an  
Inspection carried out on  
Tuesday 9 January 2007

**RENT ASSESSMENT COMMITTEE**  
**Mr Michael R Horton FRICS (Chairman)**  
**Mr Howard Lederman**

<i>Reference</i>	<i>Address</i>	<i>Tenant</i>	<i>Landlord</i>
CHI/00MS F77/2006/0183	14 King Georges Avenue Millbrook Southampton SO15 4JR	Mrs M Wallace	Mr D Herbert & Mr B Herbert

**Summary**

- 1.1 This was an objection by the Landlord against the registration by the Rent Officer of a Fair Rent for the property of £67.00 per week (p.w.) (uncapped £95.00 p.w.) registered on 20 October 2006 and effective from that date.

The Landlord had requested a fair rent of £750.00 per month (£173.08 p.w.).

The previous Fair Rent, registered by a Rent Assessment Committee on 6 May 1992 1991, effective from 30 April 1982, was £44.50 p.w..

- 1.2 Neither party requested a Hearing but both submitted written representations.

**The Statutory Provisions**

- 2.1 It may be helpful if we describe the legal background to the function we have to perform. We have paraphrased the provisions of section 70 of the Rent Act 1977 ("the Act") below, in the hope of making them reasonably comprehensible. The actual terms of the Act are in some ways rather more complex than our description indicates. This might suggest that we have failed to apply the terms of the Act properly. Therefore we make it plain that we have in practice carried out our work by reference to the actual wording of the Act and the decided cases upon it, and not by reference to this short description.
- 2.2. Section 70 of the Act provides that in determining what rent is the fair rent for a property let under a regulated tenancy we must have regard to all the circumstances (other than personal circumstances) surrounding the letting. In particular we are to have regard to the property's age, character, locality and state of repair.
- 2.3 Section 70 (2) of the Act requires us to take account of the letting market in the locality (which must be a substantial one) where the property is situated. We have to assume that the number of tenants looking for property to rent is roughly the same as the

number of similar properties available. If there are, in our view, more tenants than properties, and if we consider that this has pushed up open market rents substantially, then we have to estimate the financial effect on open market rents of this "scarcity". In that case we must make an allowance for it when we fix the fair rent.

- 2.4 Section 70 (3) requires us to disregard certain other matters when we make our determination. First, we must disregard any disrepair or other defect because of a failure by the tenant under the regulated tenancy (or any of his predecessors under the same tenancy) to comply with any of its terms. Secondly, we must also disregard any improvement carried out by the tenant or any of his predecessors, except one that he was required to make by the terms of his tenancy. An "improvement" for these purposes usually includes the replacement of any fixture or fitting, but not a repair.
- 2.5 The Rent Act (Maximum Fair Rent) Order 1999 ("the Capping Order") came into effect on 1 February 1999. In January 2000, the Court of Appeal declared that it had been improperly made because the Act under which it had been purported to be made did not give Parliament power to bring in secondary legislation of this nature. That decision in turn was reversed by the House of Lords in December 2000, and so the provisions of the Order apply to our decision.

The effect is to limit the amount of any increase in the fair rent by the way that the Order sets out, and which we have described below.

### **Inspection**

- 3.1 On Tuesday 9 January 2007 the Committee, in the presence of the Tenant and her son, inspected the property. The Landlord was not represented.
- 3.2 The Committee found the property to comprise a mainly two-story semi-detached house having brick and rendered elevations under a tiled roof. There is an open porch at the front and a conservatory to the rear
- 3.3 King Georges Avenue forms part of a predominantly residential area to the west of Southampton city centre. It is a popular location accessible to most urban amenities.

However, the subject property lies just north of a service road fronting the busy Millbrook Road while Southampton Docks lie slightly further south, as also does a large sewerage works.

- 3.4 Accommodation is arranged as follows: Ground Floor Entrance Hall, Through Living Room, Kitchen First Floor – Landing, 3 Bedrooms and Bathroom/WC (at present arranged as a shower room) Outside Car standing space to front and old shed/garage to rear.
- 3.5 The Committee noted, in particular, the poor state of the windows, other external joinery and external paintwork. The porch and conservatory are also in poor condition and the external paving and hard surfacing at the front and rear is uneven and defective.

The Committee noted the no longer functioning central heating installed by the Tenant, the modern kitchen fitments, also provided by the Tenant, which it is understood replaced an original stone sink and the provision of a shower to the bathroom which replaced an original roll top bath.

The landlord has provided partial space heating with electric units but it is understood that in the living room no longer operates.

#### **4. Representations**

- 4.1 The representations submitted by both parties include a number of claims and counterclaims regarding the conduct of the parties most of which are of no concern to the Committee and which we do not propose detailing in these reasons as they have no affect on the basis that the rent falls to be determined under sec. 70 of the Rent Act 1977. See paras. 2.1 to 2.4 above.

#### **4.2 Representation by the Landlord**

The Landlord's submission made reference to 16 King Georges Avenue being let at £700.00 per month and in a similar condition as the subject property but on a smaller plot.

The list of repairs now required highlights the need for a more appropriate and fair rent

#### **4.3 Representation by the Tenant**

The tenant's Solicitors, Messrs Abels, submitted a written representation on the Tenant's behalf.

Other than the matters which are not relevant to the Committee's decision the main points made relate to the disrepair affecting the property all of which are recorded under 3.5 above.

For record purposes Messrs Abels advise the tenancy commenced 3 May 1966.

#### **5. Conclusions**

- 5.1 In coming to their decision the Committee is directed by the provisions of Section 70 of the Rent Act 1977 and, in particular, they have to ignore any improvements carried out by the Tenant, otherwise than in pursuance of the terms of the tenancy. They also have to disregard any failure by the Tenant to fulfill their repairing obligation e.g. internal decorating.
- 5.2 The Committee carefully considered their findings at the time of the inspection, the Rent Officers inspection and registration notes and the representations of the parties.
- 5.3 With regard to the general state of the property they found the exterior, in particular, to be poorly maintained with very little evidence of recent repair work or redecoration.

The Tenant having improved the kitchen and bathroom, the Committee now have to consider the property has having an obsolete kitchen and bathroom and reflect this situation in the rental value.

It is evident from the correspondence that the relationship between the Landlord & the Tenant is difficult but it is not within the jurisdiction of a Rent Assessment Committee to resolve the disputes and disagreements which appear to exist between the parties.

- 5.4 The landlord submitted that 16 King Georges Avenue was let at £700.00 per month being a similar property and in a similar condition.

At the inspection the Tenant stated that she thought it was no.18 which was let and not no.16.

Whichever, to the Committee, this appeared of little consequence as both 16 & 18 were similar. The Committee noted that, externally, both appeared to be in a considerably better state of repair than the subject property and, in particular, had replacement windows and double glazing.

The Committee also considered from their experience and knowledge of rents in the area that neither of those properties would have achieved the rental value of £700.00 per month if they had been in the same condition as no.14, ignoring tenant's improvements.

For their rental valuation the Committee adopted a rent of £700.00 per cal. month (say, £160.00 p.w.) as a starting point.

However, at this figure a prospective tenant would expect to find a fully modernized house with modern kitchen and bathroom, full central heating and other modern amenities. They would also expect, basic furnishings which would include at least a cooker, carpets and curtains.

The Committee's experience indicates that with a considerably greater volume of property now available to rent tenants are becoming increasingly discerning and more selective so far as the standard of the property is concerned

Further, the "unfurnished" open market assured shorthold tenancy letting would almost certainly be for a term of some six to twelve months and on this basis the landlord would normally be expected to assume responsibility for internal decorations

It is necessary for the Committee to adjust the rental of £160.00 per week in order to reflect these differences.

5.5 The Committee arrived at the following valuation:

Base open market rent: £160.00 per week

Less adjustments:

Very basic space heating	£10.00 p.w.
No basic furnishings e.g. carpets, cooker etc.	£8.00
Tenants internal decorating responsibility	£8.00
Basic kitchen, and bathroom	£15.00
Poor windows and other disrepair and obsolescence	£18.00
	<u>£59.00 per week</u>

**Adjusted Rent**

**£101.00 per week**

- 5.6 In para. 2.3 above we summarized section 70(2) of "the Act". Under this provision we have to consider whether or not scarcity of this type of property available for letting in the area is *substantial*. If we find this to be the case then we have to give consideration to making an appropriate deduction.

Appeal Court decisions dictate we have to consider the scarcity factor over a wide region and this Committee considers the appropriate area to be broadly that lying within the Solent Corridor between Southampton & Portsmouth.

Within this region the Committee, based on their own knowledge and experience, no longer consider scarcity to be *substantial* within the meaning of the "Act" and conclude no further deduction should be applied.

- 5.7 However, under the provisions of the Rent Act (Maximum Fair Rent) Order 1999 the maximum Fair Rent that can be registered by the Committee under the Order is £68.00 per week.

The order provides that the maximum increase is restricted to the percentage increase in the retail price index since the last registration plus, in this case because it is the first registration since the Order came into effect, 7.5%. This amount is less than the rent assessed by the Committee so the cap takes effect.

### **Decision**

- 6.1 The Rent Assessment Committee determine the Fair Rent of **14 King Georges Avenue Southampton at £68.00 per week.**
- 6.2 In arriving at their decision the Committee considered their inspection of the premises, the information supplied and representations made to them. They have disregarded the personal circumstances of the parties, have applied their collective knowledge and experience of the locality and they have had regard, in particular, to the provisions of Section 70 of the Rent Act 1977.
- 6.3 This decision was made on Tuesday 9 January 2007 which becomes the effective date of the registration.



**MICHAEL R HORTON FRICS**  
(Chairman)

Dated 9 January 2007