

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

Address of Premises

Ground Floor Flat
109 Castlemain Avenue
Bournemouth
Dorset
BH6 5ER

The Committee members were

Mr T D George, Lawyer (Chairman)
Mr P G Harrison FRICS

1. Background

On 7 June 2005 the landlord, Taylor Properties Limited applied to the rent officer for registration of a fair rent of £400 per month for the above property.

The rent payable at the time of the application was £385 per month according to the Landlord's application but the registered rent was £320 per calendar month.

The rent was previously registered on 28 December 2000 with effect from the same date at £320 per calendar month following a determination by the rent officer.

By a letter dated 5 July 2005 the landlord, Taylor Properties Ltd 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 5 September 2005 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.

Provision of three night storage heaters

Kitchen built in cupboards and wall units

Two gas fires, one in the living room and the other in the kitchen

Landscaping the garden.

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 Southbourne and surrounds. Having done so it concluded that such a likely market rent would be £625 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 £625.00 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 £147.00 per calendar month.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £13.00 per calendar month.

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 £465.00 per calendar month.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £465.00 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 £373.50 per calendar month. (Details are provided on the back of the decision form).

Accordingly the sum of £373.50 per calendar month will be registered as the fair rent with effect from 5 September 2005 being the date of the Committee's decision.

Chairman



Mr T D George

Dated

6th

September 2005

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.