

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

Address of Premises

139 Newtown Road
Malvern
Worcestershire
WR14 1PF

The Committee members were

Mr D Jackson
Mr R Bailey
Mr D Underhill

1. Background

On 24 May 06 the landlord/tenant applied to the rent officer for registration of a fair rent of £ 85 per week for the above property.

Note: The period of the rental payments under the tenancy (e.g. weekly, monthly) should be inserted expressly above and where appropriate below.

The rent payable at the time of the application was £ 68 per week.

The rent was previously registered on 20 Aug 04 with effect from the same date at £ 68 per week following a determination by the rent officer/a rent assessment committee.

Note: (1) Insert effective date when different from that of registration. (2) The date of registration is useful for capping purposes when it is necessary to know the date of the previous registration. (3) The whole of the above sentence can be deleted in those rare cases of first registration.

On 1 Aug 06 the rent officer registered a fair rent of £ 72 per week / ~~including £ in respect of services (variable)~~ with effect from 20th Aug 06 ~~that date~~.

Note: the alternative of a variable amount for services has been added.

By a letter dated 22 Aug 06 the landlord/tenant objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

Note: this states how the matter has come before the RAC. If the letter of objection is not provided the reference to the letter of objection and date must obviously be omitted.

2. Inspection

The Committee inspected the property on...11 Oct '06...and found it to be in ~~good/fair/poor*~~ condition/~~as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.~~

~~[Brief description of state of repair here where no RO survey sheet provided].~~

~~The following tenant's improvements had been made to the property.~~

The Committee was unable to gain access at the appointed time in order to inspect the property internally and therefore made an external inspection only.

The registered rent includes a sum for the services as listed on the rent register.

3. Evidence

The Committee received written representations from the landlord and/tenant and these were copied to the parties/ ~~No written representations were received from the landlord/tenant/either party.~~

Neither party requested a hearing at which oral representations could be made.

A hearing was held onin.....at which oral representations were made by/on behalf of the landlord and/tenant. The landlord/tenant was not present or represented.

The date and place of hearing respectively can be inserted.

*A hearing was arranged for.....on
.....in.....but neither party attended.*

Note: the last option is a new alternative possibility

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 *Kenilworth Wood* Having done so it concluded that such a likely market rent would be £ *600* per *cal 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 £ *600* per *cal week* 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 £ *200* per *cal week*

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

Note: the wording has been revised to deal with the common case where the parties do not provide market comparables and also to permit the specification of sums in respect of (a)

differences between the condition of the real or hypothetical comparable(s) and the subject property and (b) the rental value of tenant's improvements, to be specified.

The Committee decided that the relevant differences between the subject property and the comparable properties given in evidence were so great as to make it inappropriate to rely on the market rent less scarcity approach in this case. It therefore relied on its knowledge and experience to assess a fair rent of £..... per

The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity. The Committee found that there was substantial scarcity in the locality and therefore deducted a further sum of £ 40 ^{per week} from the market rent to reflect this element.

This leaves a fair rent for the subject property of £ 360 ^{per week} (= £ 83 ^{per week})

This leaves an occupational element of a fair rent for the subject property of £ 83 ^{per week} to which the service element sum of £..... in respect of services should be added, resulting in a fair rent of £..... per

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £ 83 ^{per week} inclusive of £..... per in respect of services.

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 £ 76 ^{per week} /inclusive of services (Details are provided on the back of the decision form).

The section 70 fair rent determined by the Committee is below/at the same 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.

The fair rent to be registered/confirmed is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because there was not an existing registered fair rent at the time of the application.

The fair rent to be registered/confirmed is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because by virtue of landlord's repairs and/or improvements since the previous registration the rent determined/confirmed by the Committee exceeds by at least 15% the previous registered rent.

Accordingly the sum of £76.....per week...../inclusive of services of £.....per..... will be registered/confirmed as the fair rent with effect from 11/10/06..... being the date of the Committee's decision.

The registered rent is to be entered/confirmed as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)).

Note: the new version of this section is an attempt to separate out the fair rent assessed in accordance with the Act from, where applicable, the maximum fair rent provided for by the 1999 Order.

Thus the section begins with the rent determined in accordance with section 70. It then permits one of four alternative paragraphs to be chosen according to whether the cap applies or not.

Having selected one the others should be deleted before the paragraph in bold type specifying the rent to be registered/confirmed is selected in all cases. The final paragraph can be included where there is a variable service charge.

Chairman



11/10/06

Dated _____

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.