

Rent Assessment Committee: Reasons for decision.
Rent Act 1977

Address of Premises

Bowens Folly
Badgers Road
Badgers Mount
Sevenoaks
Kent
TN14 7AY

The Committee members were

Mr. R. Norman (Chairman)
Mr. C. White FRICS
Mr. S. Lal

1. Background

On 13th July 2006 the landlord applied to the rent officer for registration of a fair rent of £1,350 per calendar month for the above property.

The rent payable at the time of the application was £104.00 per week.

The rent was previously registered on 15th September 2004 with effect from 16th September 2004 at £104.00 per week following a determination by the rent officer.

On 11th September 2006 the rent officer registered a fair rent of £115.00 per week with effect from 16th September 2006.

By a letter dated 22nd September 2006 the landlord objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection

The property is a detached bungalow built in about 1930 with three rooms, a kitchen, bathroom with a bath and wash hand basin, a separate WC accessible via the rear conservatory and a second dilapidated conservatory to the side. Outside there are large gardens, and a garage to which the tenant no longer has access.

The Committee inspected the property on 15th November 2006 and found it to be in poor condition as described more particularly in the Rent Officer's survey sheet which

had been copied to the parties. In particular mould and damp are apparent throughout the property, there is no central heating, the windows and doors are not double glazed and are in poor condition, cracks can be seen in some of the walls of the rooms and at the rear of the property some of the rafter feet are not resting on the wall.

No carpets, curtains or white goods are provided by the landlord.

3. Evidence

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

The tenant requested a hearing at which oral representations could be made but later notified the Committee that he no longer wanted a hearing. The landlord did not request a hearing.

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 Sevenoaks and Orpington and the surrounding area. Having done so it concluded that such a likely market rent would be £190 per 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 £190 per 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 £65 per week calculated as follows:

	£
The lack of central heating	20
The condition of the windows and doors	10
The condition of the kitchen, bathroom and wc	20
The lack of white goods, carpets and curtains	10
The general disrepair	<u>5</u>
	65

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 £125 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £125 per week.

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 £116 per week (details are provided on the back of the decision form).

Accordingly the sum of £116 per week will be registered as the fair rent with effect from 15th November 2006 being the date of the Committee's decision.

Chairman



Dated

15.11.06