

**SOUTHERN
RENT ASSESSMENT PANEL & TRIBUNAL**

Statement of Reasons
for the Decision by a Committee of the Panel upon an
Inspection carried out on
Thursday 22nd September 2005

RENT ASSESSMENT COMMITTEE
Mr Michael R Horton FRICS (Chairman)
Mr C G Thompson

<i>Reference</i>	<i>Address</i>	<i>Tenant</i>	<i>Landlord</i>
CHI/24UL F77/2005/0125	84 Park Road Farnborough Hants GU14 6LU Hampshire	Mrs T Webberley	North Hill Freeholds Limited

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 £298.00 p.c.m. registered on 23 June 2005 and effective from that date. This rent had been subject to the *capping* legislation referred to below and the uncapped fair rent noted by the Rent Officer was ££436.00 p.c.m.

The Landlord had requested a fair rent of £810.00 p.c.m.

The previous Fair Rent, registered on 13 October 2003 and effective from that date, was £271.00 p.c.m. The uncapped fair rent at that time was noted as £374.00 p.c.m.

- 1.2 Neither party requested a Hearing.

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 Thursday 22 September 2005 the Committee, in the presence of the tenant, inspected the property. The Landlord was not represented.
- 3.2 The Committee found the property to comprise a two storey end of terrace house with solid brick external walls the end elevation having been rendered to combat problems of damp penetration. The roof is slate covered.
- 3.3 Park Road is predominantly of residential character and the subject property is located almost opposite the entrance to a sports field and allotments. The location is convenient with most urban amenities being reasonably accessible.
- 3.4 Accommodation is arranged as follows: Ground Floor Front Living Room (no entrance lobby or porch) with door to Inner Lobby with stairs to first floor and door to Rear Living Room with door to Kitchen with door to rear garden and door to Bathroom with W.C. off. First Floor - Landing and Three Bedrooms. Outside Small garden at front and long narrow garden to rear.
- 3.5 The Committee noted the general level of obsolescence affecting the property and the obvious lack of maintenance over the years. The Rent Officer's inspection notes detail the somewhat unsatisfactory state of the building with disrepair including timber decay and deteriorating pointing.

The Committee also noted the lack of support to the surface run gas pipe in the kitchen

However, since the last registration the Landlord has replaced the windows to the rear of the property with PVCu double glazed units but a number of these are poorly arranged as a result of their being obstructed by the gutters, or by other windows when both are open.

The Committee noted the extensive level of improvements carried out by the Tenant over many years and these also are detailed in the Rent Officer's notes.

Representations

- 4.1 As agents for the Landlord Messrs Hamways submitted a written representation the main points of which are as follows:
- (i) The property is located in a convenient residential area.
 - (ii) The landlords have recently installed uPVC double glazed windows.
 - (iii) A fair rent is a market rent adjusted for scarcity and any valuation should show at least some relationship with market values.
 - (iv) Reference was made to two open market lettings both of which were in Andover although one was described as being in the same road as the subject property. As a result of these lettings they consider the property would realize a rental income in excess of the Rent Officer's valuation.
 - (v) There is no longer any appreciable scarcity of accommodation in or around this area.
- 4.2 The Tenant did not submit any representations.

Conclusions

- 5.1 In coming to their decision the Committee are 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 and the representations submitted by the parties.
- 5.3 With regard to the general state of the property they found it to have been generally poorly maintained and not in the condition most prospective tenants would today expect.

Most of the modernizing features which have been incorporated into the property have been carried out at the Tenant's expense and these, which include the modern kitchen and bathroom/w.c fittings, are well documented in the Rent Officer's notes. They have to be discounted from the rent.

- 5.4 The Committee did not find the evidence of rentals in Andover, introduced by Messrs Hamways, as particularly helpful they being some 40 miles from Farnborough.

Accordingly the Committee decided to rely on their own expertise and experience of rental values in the area and they agree with the Rent Officer that a Landlord could reasonably expect to let a property of this type and in this location at a rent of £750.00 per calendar month.

However, at this figure a prospective tenant would expect to find a house in substantially better condition with modern kitchen, bathroom, full central heating and other modern amenities. They would also expect to find, at this level of rent, 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 £750.00 per month to reflect these differences.

5.6 The Committee arrived at the following valuation:

Base open market rent:		£750.00 per month
Less adjustments:		
No central heating	£54.00 pm	
No basic furnishings e.g. carpets, cooker etc.	£30.00 pm	
Tenants internal decorating responsibility	£30.00 pm	
Basic kitchen, bathroom and wiring	£86.00 pm	
Other disrepair/obsolescence	£65.00 pm	<u>£265.00 per month</u>
Adjusted Rent		<u>£485.00 per month</u>

5.9 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 precedents dictate we have to consider the scarcity factor over a wide region and this Committee considers the appropriate area to be broadly that contained between Bagshot to the north, Guildford to the east, Farnham to the south and Hook to the west.

The Committee noted the Rent Officer had made an allowance of 10% for scarcity.

Messrs Hamways suggest in their representation that there is no appreciable scarcity in and around this area. The Committee agree with this view based on their own knowledge and experience and concluded no further deduction is applicable within the meaning of the "Act".

5.10 The rental value arrived at by the Committee is higher than the amount of £299.00 per calendar month, which is the maximum that can be registered under the provisions of "the Capping Order", and the Committee therefore had to decide whether any works carried out by the landlord, since the last registration, had increased the rent registered at that time by more than 15%.

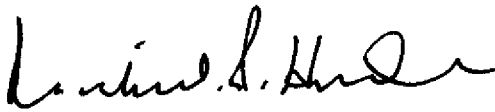
The only works carried out since the last registration comprise the fitting of PVCu windows. The Committee agree with the Rent Officer and find these works were insufficient to have increased the rent by the required 15% so the "Capping Order" applies..

Decision

- 6.1 The Rent Assessment Committee determine the Fair Rent of **84 Park Road, Farnborough, Hampshire at £299.00 per calendar month** being the maximum rent they are permitted to register under the provisions of "the Capping Order"

The uncapped Fair Rent is ££485.00 per calendar month..

- 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 Thursday 22nd September 2005 which becomes the effective date of the registration.



MICHAEL R HORTON FRICS
(Chairman)