

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

Address of Premises

Ground Floor Flat,
20 Tregoney Hill,
Mevagissey,
PL26 6RD

The Committee members were

D G Willis (Chair)
A J Lumby BSc FRICS
Ms C Rai

1. Background

On 8th June 2004 the landlord applied to the rent officer for registration of a fair rent of £ 70.00 per week for the above property.

The rent was previously registered on 18th August 1989 with effect from the same date at £ 28.00 per week following a determination by the rent officer.

Since the previous registration the parties had agreed rent increases between themselves resulting in the current rent of £50.00 per week.

On 16th August 2004 the rent officer registered a fair rent of £ 47.50 per week with effect from that date.

By a letter dated 27th August 2004 the landlord 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 Wednesday 3rd November 2004 and found it to be in good 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
None

3. Evidence

The Committee received a request for a hearing to be arranged. No written representations were received from the tenant or the landlord.

The hearing was duly held on 3rd November 2004 at the Council Chamber, Restormel Council Offices, St.Austell at which oral representations were made by the landlord. The tenant was not present or represented.

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).

The Committee also has to have regard to the Rent Acts (maximum fair rent) order 1999 where applicable. Most objections to and determinations of registered rents are now subject to the order, which limits the amount of rent that can be charged by linking increases to the retail price index. It is the duty of the Rent Assessment Committee to arrive at the fair rent under Section 70 of the Act but in addition to calculate the maximum fair rent which can be registered according to the rules set out in the order. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rent for 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 landlord and the Committee's own general knowledge of market rent levels in the areas of adjacent Mid Cornwall and St.Austell. Having done so it concluded that such a likely market rent would be £ 75.00 per week.

The Committee decided it was first necessary to adjust that hypothetical rent of £75.00 per week to reflect the tenant's decorating obligations. The Committee considered that this required a deduction of £5.00 per week.

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 £70.00 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £70.00 per week.

The Committee considered the Maximum Fair Rents Order but decided that the order did not apply as the value of the repairs and improvements that had been carried out by the Landlord since the previous registration (18.8.1989) exceed 15% of the previous registered rent of £28.00 per week. Therefore, the Rent Acts (Maximum Fair Rent) Order 1999 does not apply.

Accordingly the sum of £70.00 per week will be registered as the fair rent with effect from 3rd November 2004 being the date of the Committee's decision.

Chairman



D G Willis (Chair)

Dated

3rd November 2004

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.