

**Rent Assessment Committee: Summary reasons for decision.
Housing Act 1988 – Section 22**

Address of Premises

42 Elder Road
London
SE27 9ND

The Committee members were

Mrs A Landau JP LLB
Mr W J Reed FRICS
Mr O N Miller

1. Background

On 24 January 2005 the tenant of the above property applied to the Committee for a determination under section 22 of the Housing Act 1988.

The tenancy commenced on 18 December 2004 for a term of 6 months.

The current rent is £750 per month.

2. Inspection

The Committee inspected the property on 14 March 2005 and found it to be in fair condition.

3. Evidence

The committee received written representations from the landlord and tenant and these were copied to the other party.

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

4. The law

In accordance with the terms of section 22(3) Housing Act 1988 the Committee may make a determination of the rent at which it considers that the subject property might reasonably be expected to be let under the assured shorthold tenancy. However the Committee may not make such a determination unless it considers -

- (a) that there is a sufficient number of similar dwellings-houses in the locality let on assured tenancies (whether shorthold or not); and
- (b) that the rent payable under the assured shorthold tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

Section 22(5) provides that for the purposes of this section "rent" includes amongst other things any sums payable to the landlord by the tenant in respect of council tax.¹

Section 22(5) provides that for the purposes of section 22 "rent" does not include a "service charge" within the meaning of section 18 Landlord and Tenant Act 1985 (i.e. where the service charge payable by the tenant is variable from time to time according to the relevant costs). However it does include a "fixed" service charge.

5. The decision

The Committee concluded that the requirements of section 22(3) are satisfied. In coming to its decision the Committee had regard to the members' own general knowledge of market rent levels in the area of West Norwood. Having done so the Committee determined that the rent at which it considers that the subject property might reasonably be expected to be let under the assured shorthold tenancy is £640 per month inclusive of water rates.

This rent will take effect from 24 January 2005 being a date not earlier than the date of the application..

It should be noted that the tenancy contains a variable service charge within the meaning of section 18 of the Landlord and Tenant Act 1985. It follows that the rent determined by the Committee for the purposes of this application is exclusive of that service charge which will therefore be recoverable by the landlord in addition to the rent determined. (Section 22(5)).

Chairman A Landau

Dated 14 March 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 which must be made within 28 days from the date of issue of this document.

¹ This will be relevant in the case of houses in multiple occupation where liability for the council tax falls on the landlord but is (proportionately) passed on to the tenant.