

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

**Address of Premises**

39 Whitehall Road  
Thornton Heath  
Surrey  
CR7 6AF

**The Committee members were**

Mr J Hewitt  
Mr D N Huckle FRICS  
Mrs M B Colville JP LLB

### **1. Background**

On 28 April 2003 the landlord applied to the rent officer for registration of a fair rent of £750 per month for the above property.

The rent payable at the time of the application was £474.50 per month.

The rent was previously registered on 24 April 2002 with effect from the same date at £474.50 per month following a determination by the rent officer.

On 13 June 2003 the rent officer registered a fair rent of £513.50 per month with effect from that date.

By a letter dated 17 June 2003 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 4 December 2003 and found it to be externally in fair condition only but otherwise broadly as described more particularly in the Rent Officer's survey sheet which had been copied to the parties, except that the landlord had carried out the following works since the least registration on 24 April 2002: full central heating, double glazing, replacement rear exterior door, repair to rear cills, dpc inserted in rear bay blocking of the former rear doorway, replacement doors to the external wc and store, some replacement guttering and down pipe, repairs to leaking roof and flashings.

Tenants improvements to the property: were numerous and included in particular, refitting the kitchen and formation of a ground floor shower room.

### **3. Evidence**

The Committee received written representations from the tenant and these were copied to the landlord. No written representations were received from the landlord.

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

#### **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 Committee's own general knowledge of market rent levels in the area of Thornton Heath. Having done so it concluded that such a likely market rent would be £1000 per month.

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 £1000 per month 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 and tenant's improvements). The Committee considered that this required a deduction of 25%.

The Committee found that there was substantial scarcity in the locality of south and south east London and therefore made a deduction of 20% from the market rent to reflect this element.

#### **6. Decision**

The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £600 per month.

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

The Committee's view is that had they been required to determine a fair rent for the house at 4 December 2003 disregarding the works undertaken by the landlord since the last registration (listed at paragraph 2 above) they would have arrived at an adjusted market rent of £650 per month and deducted for scarcity at 20% to arrive at a fair rent of £520 per month.

The Committee's interpretation of paragraph 2(7) of the 1999 Order is that the 15% increase should be wholly attributable to the repair and improvements and not inflation. The exercise to be carried out to determine whether exemption from capping applies is to assess the amount by which the new fair rent (£600) exceeds the previous registered rent in wholly as a result of the landlords work (£80). As this is more than 15% of the previously registered fair rent (£474.50) then exemption from capping applies.

**Accordingly the sum of £600 per month will be registered as the fair rent with effect from 16 December 2003 being the date of the Committee's decision.**

Chairman: J Hewitt

Dated: 16 December 2002

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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 written request to the committee clerk at the Panel Office which must be made within 28 days from the date of issue of this document.

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