

**Rent Assessment Committee: Summary reasons for decision.
Rent Act 1977****Address of Premises**

24 Middle Way
Lewes
East Sussex
BN7 1NH

The Committee members were

Ms J A Talbot MA (Cantab)
Mr A O Mackay FRICS
Ms J Dalal

1. Background

On 16/06/2003 the landlord applied to the rent officer for registration of a fair rent of £500.00 per calendar month for the above property.

The rent payable at the time of the application was £3,462.00 per year, or £288.50 per calendar month.

The rent was previously registered on 16/12/1999 with effect from the same date at £3,462.00 per year following a determination by the rent officer.

On 11/08/2003 the rent officer registered a fair rent of £327.50 per calendar month with effect from that date.

By a letter dated 29/08/2003 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 24/11/2003 and found it to be in fair condition. It is a two storey semi-detached house built in the 1920's of brick construction under a tiled roof, situated on gently rising ground in the residential area of the Neville estate in Lewes. The house was formerly council housing stock. The accommodation consists of 2 rooms plus kitchen on the ground floor and 3 rooms plus bathroom and WC on the first floor. There is a good sized rear garden and small front

garden. The main top roof was in satisfactory condition, but there were several uneven and weathered tiles to the lower rear roof .

During 2002, since the date of the last registration, extensive works were carried out to the property. Replacement UPVC windows and doors were installed throughout, including a very small “conservatory” and French door leading to the garden from the rear ground floor room. The Committee noted that this door was not well-fitted, and that the sloping glass roof of the conservatory, along with its flashing, had slipped down and was resting on the guttering, causing it to bow. The UPVC windows were of inferior quality and workmanship, and the rear kitchen door was slightly warped with cracked plaster around it that had not been made good.

The kitchen was refurbished in 2002 by the installation of a Vaillant wall mounted boiler, stainless steel sink unit and small worktop area along the opposite wall with cupboard units under. The worktop was poorly installed with no end stop fitted. The tenant’s cooker and fridge remain in place. The bathroom fittings are old and basic. The old boiler remains in the bathroom although it is now disconnected.

The property has partial gas central heating, installed in May 2002. There are no radiators in 2 of the bedrooms. Hot water is supplied by the central heating system. The property has been electrically re-wired throughout.

No qualifying tenant’s improvements have been made to the property.

3. Evidence

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

A hearing was held on 24/11/2003 in Lewes at which oral representations were made by the landlord, Ms Wycherley, who also manages the property as she is a local professional managing agent. The tenant was not present or represented.

Ms Wycherley gave evidence to the Committee about the history of the works, which she contended were improvement works as a result of which the rental value of the property had increased, in her view, by more than 15% since the last registration. Ms Wycherley had intended to organise the works herself following the service of a Repair Notice by Lewes District Council. She said she was unable to do so because of the shortage of contractors after the severe floods of 2001, and also because the then tenant, Mr Honeywood, was ill and she wanted to avoid any disturbance to him.

As a result the local authority carried out the works in default, despite Ms Wycherley's protests. She was prevented from having any role in, or control over, the works. She has been involved a dispute with the local authority over the cost and poor standard of the works. This has been settled, in that she has paid an agreed amount towards the cost of the works, but remains unhappy about the poor quality of the workmanship. The Committee made it clear that it had no role in relation to this dispute and would make no findings about it.

In reply to questions from the Committee about the need for replacement of the of old wooden sash windows, Ms Wycherley accepted that these were in poor condition (as reported by the Rent Officer's inspection), and had not been maintained, as she had intended to replace them eventually. Ms Wycherley also confirmed that she had arranged for the electrical wiring upgrade and had added additional power points.

Regarding the central heating, Ms Wycherley, in reply to a further direction from the Committee, provided further written evidence to the effect that this was installed under the Warm Front Scheme run by the EAGA partnership, a DEFR initiative open to elderly people in receipt of welfare benefits. The tenant was eligible for a grant. Ms Wycherley completed the necessary forms and liaised with EAGA and the contractors. Cavity wall insulation was also carried out by EAGA.

Turning to the question of comparables, the Committee reminded Ms Wycherley that the starting point was current open market comparables rather than other fair rents. Ms Wycherley said that there were very few comparable properties to let on the Neville Estate and thus her comparables were in other locations in Lewes, all let on assured shorthold tenancies:

- 39 Western Road, a 2 bedroom cottage, recently modernised, with 1 reception room, kitchen and bathroom, smaller than the subject property and with a small garden at £675.00 per calendar month
- 41 Leicester Road, 3 bedrooms, 1 reception, with shower room, central heating but dated fittings, at £675.00 pcm
- Pipe Passage, 4 rooms, central heating, small garden at £625.00 pcm
- “Tenby”, North Street, closer in size to the subject property with 3 bedrooms, large garden, central heating, refurbished kitchen and bathroom, town centre location, at £181.00 per week.

Ms Wycherley considered that the increase in rental value of the subject property attributable to the improvement works should be in the region of £100.00 to £150.00 per week, and that in its current improved state the property would fetch an open market rental income of between £600.00 to £700.00 per calendar month.

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 Lewes, East Sussex. The Committee noted the comparable evidence put forward by Ms Wycherley, but considered that most of these were not directly helpful, as they were not similar enough to the subject property in size, character or location. We concluded that such a likely market rent would be £160.00 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 £160.00 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 total deduction of £34.00 per week, calculated as follows:

Optimum open market rent:	£160.00
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Deductions:

Lack of carpets, curtains, white goods	£10.00
Poor quality new windows	£ 3.00

Guttering (glazing to back addition lying on gutter)	£ 3.00	
Central heating partial only	£ 4.00	
Poor kitchen fittings	£ 6.00	
Basic bathroom fittings	£ 6.00	
Tenant's decorating liability	<u>£ 2.00</u>	<u>£ 34.00</u>
		<u>£126.00</u>

As there were no tenant's improvements it was not necessary to make any further deduction. The Committee decided that the installation of central heating should be regarded as works carried out by the landlord, within the meaning of the Rent Act (Maximum Fair Rent) Order 1999, rather than a tenant's improvement, because these works were procured by the landlord.

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 fair rent for the subject property of £126.00 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £126.00 per week, or £546.00 per calendar 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 or improvements since the previous registration the rent determined by the Committee exceeds by at least 15% the previous registered rent.

Accordingly the sum of £546.00 per calendar month will be registered as the fair rent with effect from 4 December 2003 being the date of the Committee's decision.

Chairman

J Talbot

Ms J A Talbot

Dated

23/01/04

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.