

Rent Assessment Committee: Summary reasons for decision.**Section 22 Housing Act 1988****Address of Premises**

7 Lockwood Court
Woodfield Road
Northgate, Crawley
RH10 8XR

The Committee members were

Ms J A Talbot MA (Cantab) Chairman
Mr J N Cleverton FRICS
Ms J Dalal

1. The Application

On 01/07/2004 the tenants of the above property made an application under Section 22(1) of the Housing Act 1988 ("The Act") to the Committee for a determination of the rent which, in the Committee's opinion, the landlord might reasonably be expected to obtain under the assured shorthold tenancy.

The tenancy is a periodic assured shorthold tenancy which commenced on 06/05/2004. There is a dispute between the landlord and the tenants on the current rent payable, which is discussed further below.

2. The Law

The law is to be found in Section 22(3) of the Act, which provides that, where an application is made with respect to the rent under an assured shorthold tenancy, the Committee shall not make such a determination unless they consider:

- (a) that there is a sufficient number of similar dwelling-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 obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

3. Inspection

The Committee inspected the property on 03/09/2004 and found it to be in good condition. The property comprises a purpose-built apartment in a modern courtyard development of 16 units, constructed in the 1980's, with communal gardens and allocated parking spaces. It is situated on level ground in a pleasant and convenient residential location in Crawley, close to public transport and amenities.

The accommodation is arranged on 2 floors and consists of a small lobby area, fitted kitchen with appliances and living room on the ground floor, and 3 rooms plus bathroom/W.C. on the first floor. The property has central heating.

4. Evidence

The committee received written representations from the landlord and tenant and these were copied to the parties. A hearing was held on 03/09/2004 at the Hawth Centre in Crawley at which oral representations were made by the tenants, Mr Compte and Mr Daley, in person, and by Mrs Spiteri and Ms Duke, of Andrew Hunt letting agents, on behalf of the landlord.

There was a lack of agreement between the parties over the rent payable under the tenancy. The tenants had taken the tenancy at short notice on 06/05/2004, with the expectation that they would only occupy the property temporarily until larger alternative accommodation became available. It was intended at that stage that they would move several weeks later, but in the event this did not happen, and they remain in occupation of the property.

The tenants' case was that they were told verbally by the letting agent, Mrs Spiteri, when they moved in, that the rent for the property would be £578.00 per month, and this is what they have paid each month since the start of the tenancy. The landlord's case was that the tenants had been told verbally by Mrs Spiteri that the actual rent for

the property was £850.00 per month, that the first month would be charged at £578.00 on a pro-rata basis.

The tenants did not have a written tenancy agreement, and there was some dispute as to whether they had been asked to sign one. Mrs Spiteri produced a document showing a rent of £850.00 which she said had subsequently been sent to the tenants, although she admitted that there was no written confirmation of the tenancy terms at the time the tenants moved into the property. She also admitted that some letters sent to the tenants during June and July 2004 claiming that the rent was £1,200.00 per month, was not accurate: unfortunately, by this time, the relationship between the parties had become strained, partly due to an ongoing dispute over the return of a previous deposit. This matter was not before the Committee, and was not directly relevant to the application before it.

Turning to the question of the rent that the landlord might reasonably expect to obtain for the property on the open market, the tenants contended that it was worth £600.00 per month, given the relatively small size of some of the rooms and the lack of a private garden. They did not have any comparable evidence to support this view, but had previously occupied a larger property in 2003 in Crawley through the same agency, with 3 bedrooms, 2 reception rooms, and garden, for £850.00 per month, so they thought the subject property was worth less.

Mrs Spiteri gave evidence that her letting agency, Andrew Hunt, was responsible for letting several other units in the development. No 12, a 3 bedroom unit similar in size and condition to the subject property, was currently let for £850.00 per month. No 7, the subject property, had previously been let to other tenants at £850.00 per month and she produced copy tenancy agreements to that effect. Nos 8,10 and 16, all 2 bedroom units, were let at £750.00 and £725.00 per month.

Mrs Spiteri said that the house in Southgate previously occupied by the tenants was an older style property, which explained the rent of £850.00, and that they had been recently been offered separate 1 bedroom flats at £650.00 per month which they had been prepared to accept. She further contended that the rents at Lockwood Court were in line with rents charged in similar developments by other letting agents in the town.

5. The decision

The Committee carefully considered the evidence given by the parties. As set out in paragraph 2 above, the Committee reminded itself that it could only make a determination of the rent if two conditions were met: first, that there was a sufficient number of other properties in the locality let on assured shorthold tenancies; and second, that the rent payable under the tenancy was significantly higher than the rent which the landlord might reasonably expect to receive on the open market. The Committee had no doubt, based on its collective knowledge and experience of the local rental market, that there were many other properties let in Crawley on assured shorthold tenancies, so the first condition was satisfied .

However, the question of the rent payable under this tenancy, was unusually difficult to establish. It was clear to the Committee that some misunderstanding had arisen between the parties when the tenancy was entered into, probably because the tenancy was taken at short notice, and at the outset, neither party envisaged that the tenants would be staying more than a few weeks before moving on. It was regrettable that the verbal discussion between the landlord's agent and the tenants was not immediately confirmed in writing.

The Committee accepted that the usual rent for this property was £850.00 per calendar month, and considered it unlikely that the landlord would have intended to let it for less than this sum under a usual 6 month assured shorthold let. However, it appeared that the tenants had understood that the rent would be £578.00 per calendar month, not just for the first few weeks of occupation, but also thereafter.

The Committee did not make a finding as to the contractual rent agreed between the parties: if this element of their dispute is to continue then it will have to be resolved in the County Court, should the landlord seek to pursue any alleged arrears of rent.

The Committee reviewed the evidence of other comparable rents and accepted the landlord's evidence that the same property had been previously let, and other same sized units in the development were currently let, at £850.00 per calendar month. This

appeared fairly conclusive as to the open market rent for this property that the landlord could reasonably expect to receive. It was the best evidence of the willingness of other prospective tenants to take the property at this rent, as this was a true test of the market.

Therefore the Committee decided that, whether the rent payable by these tenants was £578.00 or £850.00 per month, either way it was not significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy. This meant that the second condition explained above was not satisfied, and so the Committee was not able to make a determination.

Chairman J Talbot

Dated 13/09/04

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 which must be made within 21 days from the date of issue of this document.