

Rent Assessment Committee: Reasons for decision.

Rent Act 1977

Address of Premises

127 High Street
Garlinge
Margate
Kent
CT9 5LY

The Committee members were

Mr. R. Norman (Chairman)
Mr. R. Athow FRICS MIRPM
Ms. L. Farrier

1. Background

On 30th December 2004 the landlord applied to the rent officer for registration of a fair rent of £890 per calendar month for the above property.

The rent payable at the time of the application was £68.50 per week.

The rent was previously registered on 27th January 2003 with effect from 16th February 2003 at £68.50 per week following a determination by the rent officer.

On 21st February 2005 the rent officer registered a fair rent of £75 per week with effect from that date.

By a letter dated 2nd March 2005 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 14th April 2005 and found it to be in poor condition.

The property is a small terraced house with, on the ground floor, a sitting room and kitchen and on the first floor two bedrooms and a bathroom with wc. The front door which leads directly into the sitting room does not fit properly. There is some evidence of damp in the back bedroom. There is no central heating or double glazing and some external decoration is

needed. At the rear of the property is a very small rear garden and yard with a shared pedestrian access immediately outside the back door.

The tenant has provided carpets, curtains and white goods and has fitted a sink unit in the kitchen.

The tenant stated that he had obtained approval for a grant to install central heating but the landlord had decided not to install central heating.

3. Evidence

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

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 evidence supplied by the parties and the Committee's own general knowledge of market rent levels in the area of Thanet and East Kent. Having done so it concluded that such a likely market rent would be £135 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 £135 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 deduction of £60 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 £75 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £75 per week.