

## **THE MIDLANDS RENT ASSESSMENT COMMITTEE**

### **DETERMINATION OF FAIR RENT**

**Members:**    **Mr I.D. Humphries B.Sc.(Est.Man.) FRICS**  
                  **Mr W.H. Hatcher**  
                  **Mrs K. Bentley**

**Premises:**    **39 Corbett Street, Smethwick, West Midlands, B66 3PU**

#### **1        Background**

1.1        This is a determination of Fair Rent under s.70 of The Rent Act 1977 following an appeal by the landlord against the Rent Officer's registration of a fair rent of £285.00 per calendar month from 20th September 2005.

#### **2        Legal Basis of Valuation**

2.1        The property is let by Regulated Tenancy and the rent falls to be determined in accordance with s.70 of The Rent Act 1977. The Landlord is Mr A. Hussein and the Tenants are Mr and Mrs B. Newman. The property is let unfurnished.

2.2        S.70(1) states that in determining a fair rent, regard has to be had to all the circumstances of the tenancy (other than personal circumstances) including the age, character, locality and state of repair of the house, whether the property is let furnished and whether a premium had been paid or would be required to renew, continue or assign the tenancy.

2.3        s.70(2) adds a further qualification that it is assumed that the number of parties seeking to become tenants of similar houses in the locality on the terms of the tenancy (other than the rent) is not substantially greater than the number of houses available to let on such terms. This is usually referred to as 'scarcity' and the Court of Appeal held in *Spath Holme Ltd. v Chairman of the Greater Manchester Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB 92 that under normal circumstances, the fair rent is the market rent discounted for scarcity. The Court also held that assured tenancy rents could be considered as comparables for market rents.

2.4        In this case, the original tenancy agreement had not been provided to the Rent Assessment Committee but the rent had previously been registered at £55.00 per week with effect from 16th July 2003 and on 25th August 2005 the landlord had applied to the Rent Officer for a rent of £433 p.c.m.

(equivalent to £100 per week). The application stated the current rent to be £65.00 per week but this was believed to be an error as it was higher than the registered rent.

2.5 The Rent Officer registered a new rent of £285.00 per calendar month on 20th September 2005 effective from that date and the landlord appealed to the Rent Assessment Committee by letter dated 28th September 2005, received on 3rd October 2005.

2.6 The Committee reached its decision on 8th November and sent a Decision Notice and Summary Reasons to the parties on 10th November 2005. The landlord then applied for Extended Reasons which are the subject of this document.

### **3 Facts Found**

3.1 The Rent Assessment Committee inspected the property on 8th November 2005 in the presence of the landlord's Agent, Mr Afzal and the tenant, Mr and Mrs Newman.

3.2 It is a mid-terraced house of brick and slate construction with a sitting room, hall and kitchen on the ground floor, cellar, stairs to a landing, two bedrooms and bathroom with bath, hand basin and w.c. on the first floor. There is double glazing but no heating other than a gas fire in the sitting room which had been provided by the tenant and is disregarded for the purposes of assessing the Fair Rent. There is a shared passageway entrance to the side of the house and a back garden with paving and lawn, overlooking a park to the rear.

3.3 The property was in good condition and had been substantially refurbished in 2003 with grant aid from Birmingham City Council.

### **4 The Submissions of the Parties**

4.1 A Hearing was held at the Rent Assessment Panel office in Birmingham on 8th November 2005 attended by Mr Afzal and Mr and Mrs Newman.

4.2 Mr Afzal said that he considered the market rent to be about £450 per calendar month and produced letters from four local letting agents as evidence; Meridian Estates (Birmingham) Ltd. estimated the rent at £450 p.c.m., Oakwood at £450 p.c.m., Surelet at £400-450 p.c.m. and Liberty Estates at £500 unfurnished and £525 p.c.m. furnished. He said there was substantial demand for properties of this size in the area and that he had a waiting list. The Windmill Shopping Centre nearby was an added attraction. Mr Afzal said Birmingham City Council had spent about £40,000 on the refurbishment and the landlord had also contributed to the cost.

4.3 Mr Afzal said the rent should now be paid monthly in advance and that it was in arrears. He had previously written to the Rent Officer asking for the rent to be registered monthly and the Rent Officer had agreed to this as it had previously been registered weekly at the last registration in 2003.

4.4 Mrs Newman said the property had been reduced in size on refurbishment as the former kitchen and W.C. had been demolished and the rear sitting room had been converted to form a new kitchen. There was now only one sitting room. These works however pre-dated the 2003

registration. She also said the property had no outlook or privacy at the front following the construction of a new shopping centre on the opposite side of Corbett Street.

4.5 Mrs Newman said that a neighbour's house with similar layout had been assessed at a rent of £54 per week in October 2005.

4.6 In answer to questions from the Committee, Mrs Newman said she had originally paid rent weekly but at some point had been unable to pay and Mr Afzal offered to accept rent 'at the end of the month'.

## **5 Tribunal Decision**

5.1 The first point for the Committee to consider was whether the rent should be registered weekly or monthly. It was clear from the 2003 registration that the rent had previously been weekly and the tenant confirmed that it had originally been paid weekly. The Committee are unable to vary the contractual terms and therefore found the rent should be registered at a weekly sum.

5.2 The starting point for the assessment of fair rent is the market rent, i.e. the rent a landlord could reasonably expect to receive for a property of this type let in the open market on terms usual for this type of tenancy. The landlord had helpfully provided evidence that the Committee took into account together with their own general (but not special) knowledge of rents in the West Midlands area and considered that a likely market rent for a house of this type with double glazing but no central heating would be £90.00 per week.

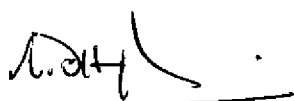
5.3 The Committee were aware that the tenant had fitted a gas fire in the sitting room but did not consider it to have affected the rental value and made no deduction for tenant's improvements.

5.4 The Committee were then required to consider whether there was 'scarcity' in the West Midlands and if so, whether it was substantial. Having heard the evidence and taken account of their own general knowledge the Committee found that there was substantial scarcity and deducted 20% from the market rent to reflect this, i.e. £18.00 per week.

5.5 This left a Fair Rent of £72.00 per week.

5.6 However, the rent is capped by the Rent Acts (Maximum Fair Rent) Order 1999 which limits any rent increase to the previous registered rent increased in line with the Retail Price Index plus 5%, as set out on the attached form already supplied to the parties but included here for completeness. Based on the Order, the Maximum Fair Rent is £67.00 per week.

5.7 Accordingly, the Rent Assessment Committee find the Fair Rent to be £67.00 per week with effect from 8th November 2005 which is the date of the Committee Decision.



I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman

12th December 2005