

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

Address of Premises

23, Westbourne Road
North End
Portsmouth
Hants
PO2 7LB

the Committee members were

Miss R Wynn-Jones (Chairman)
Mr. K.M. Lyons
Mr. P. Owen

1. Background

On 9th June 2003 the landlord applied to the rent officer for registration of a fair rent of £ 75 per week for the above property.

The rent payable at the time of the application was £66.50 per week

The rent was previously registered on 18th July 2001 with effect from 9th September 2001 at £ 66.50 per week following a determination by the Rent Officer

On 11th July 2003 the Rent Officer registered a fair rent of £ 73.00 per week with effect from that date.

By a letter dated 26th August 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 28th October 2003 and found it to be in good condition. The property was found to be an Edwardian brick built terrace house comprising two rooms, a kitchen and small glazed porch on the ground floor. On the upper floor there were three bedrooms and a bathroom.

The following tenant's improvements had been made to the property:

Fitted kitchen (including white goods)

Fitted bathroom

Addition of glazed porch

Installation of central heating and boiler.

Installation of gas fires in two ground floor rooms.

3. Evidence

The Committee received written representations from the landlord, which were copied to the tenant. No written representations were received from the tenant. The landlord confirmed that she had installed UPVC windows at the property, but did not give evidence as to its cost. The landlord contended however that these works had not been taken into account by the Rent Officer, in making his determination of rent.

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).

The Committee also took into account the provisions of the Rent Act (Maximum Fair Rent) Order 1999 in reaching its determination of the rent to be paid for the 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 its own general knowledge of market rent levels in the area of Portsmouth. Having done so it concluded that such a likely market rent would be £145 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 £145 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). Furthermore the Committee made further deductions to allow for the tenant's improvements (listed above). Accordingly, the Committee considered that in total a deduction of £ 60 per week should be made. Within this figure the Committee had taken into account the additional benefit of the installation of the new UPVC windows carried out by the landlord referred to above.

The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity.

6 Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £ 85 per week.

However by virtue of the Rent Acts (Maximum Fair Rent) Order 1999, the maximum fair rent that could be registered in the present case is the lower sum of £73 per week. (Details are provided on the back of the decision form).

The Committee did assess whether the cost of installation of the UPVC windows by the landlord, constituted improvements the cost of which exceeded by at least 15 percent the previous registered rent, but decided that this was not the case.

Accordingly the sum of £73 per week will be confirmed as the fair rent with effect from 28th October 2003, being the date of the Committee's decision.

Chairman *Rhianon Wyn Jones*

Dated *4th December 2003*

This document contains a summary of 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 this document.