

Notice of the Rent Assessment Committee Decision

Rent Act 1977 Schedule 11

Address of Premises

Flat 82 Norbiton Hall
Birkenhead Avenue
Kingston upon Thames
Surrey KT2 6RR

The Committee members were

Mrs E Samupfonda LLB (Hons)
Mrs E Flint DMS FRICS IRRV
Mr T W Sennett MA FCIEH

Landlord

Pearl Property Ltd

Tenant

Mrs A M Roberts

1. The fair rent is £ 7040 Per Annum (excluding water rates and council tax but including any amounts in paras 3&4)

2. The effective date is 20 September 2004

3. The amount for services is £ 544.00 Per Annum
negligible/not applicable

4. The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is

£ 244.00 Per Annum
not applicable

5. The rent is not to be registered as variable.

6. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 apply (please see calculation overleaf).

7. Details (other than rent) where different from Rent Register entry

8. For information only:

- (a) The Registered Rent (exclusive of any *variable* service charge) is not capped under the provisions of the Rent Acts (Maximum Fair Rent) Order 1999, because it is below the capped figure of £7206.50 per annum.

Chairman

E Samupfonda

Date of decision

20 September 2004

MAXIMUM FAIR RENT CALCULATION

LATEST RPI FIGURE x 186.8

PREVIOUS RPI FIGURE y 175.7

x 186.8 minus y 175.7 = (A) 11.1

(A) 11.1 divided by y 175.7 = (B) 0.063176

First application for re-registration since 1 February 1999 NO (delete as applicable)

If yes (B) plus 1.075 = (C)

If no (B) plus 1.05 = (C) 1.113176

Last registered rent* £ 6473.50 Multiplied by (C) = £ 7206.14

*(exclusive of any variable service charge)

Rounded up to nearest 50 pence = £ 7206.50

MAXIMUM FAIR RENT = £ 7206.50 Per annum

Explanatory Note

1. The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
2. In summary, the formula provides for the maximum fair rent to be calculated by:
 - (a) increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
 - (b) adding a further 7.5% (if the present application was the first since 1 February 1999) or 5% (if it is a second or subsequent application since that date).

A 7.5% increase is represented, in the calculation set out above, by the addition of 1.075 to (B) and an increase of 5% is represented by the addition of 1.05 to (B).

The result is rounded up to the nearest 50 pence.

3. For the purposes of the calculation the latest RPI figure (x) is that published in the month before the Committee's fair rent determination.
4. The calculation of the maximum fair rent excludes any sum payable under a variable service charge, where the rent is registered as variable under section 71(4) of the Rent Act 1977. In such a case that sum is added to the maximum fair rent in order to produce the rent to be registered as the fair rent.

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

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1. Background

On 26 February 2004 the landlord applied to the rent officer for registration of a fair rent of £7,444.50 per annum for the above property.

The rent payable at the time of the application was £6,473.50 per annum.

The rent was previously registered on 10 April 2002 with effect from 22 May 2002 at £6473.50 per annum following a determination by the rent officer.

On 2 April 2004 the rent officer registered a fair rent of £7096.00 per annum including £846.00 per annum in respect of services with effect from that date 22 May 2004.

By a letter dated 9 April 2004 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection

The tenant had previously indicated that she would not be available to provide access. The Committee therefore inspected the property externally on 20 September 2004 and found it to be in fair condition.

3. Evidence

No written representations were received from the tenant.

A hearing was held 20 September 2004 at 10 Alfred Place at which oral representations were made and written representations submitted on behalf of the landlord. The tenant was not present or represented.

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 Kingston. Having done so it concluded that such a likely market rent would be £12,800 per annum.

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 £12,800 per annum 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 £4,000 per annum.

This leaves an adjusted market rent for the subject property of £8,800 per annum.

The Committee found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 20% from the market rent to reflect this element.

6. Decision

The uncapped fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £7040.00 per annum inclusive of services.

The section 70 fair rent determined by the Committee is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect. Details are provided on the back of the decision form.

Accordingly the sum of £7040 per annum inclusive of services will be registered as the fair rent with effect from 20 September 2004 being the date of the Committee's decision.

Chairman: E Samupfonda

Dated: 20 September 2004

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 written request to the committee clerk at the Panel Office which must be made within 28 days from the date of issue of this document.

FRSUMREAS/2002