

EASTERN RENT ASSESSMENT PANEL

STATEMENT OF REASONS FOR THE DECISION OF THE COMMITTEE WHICH MET ON 29th DECEMBER 2006 TO DETERMINE A FAIR RENT IN RESPECT OF 9 HILDESLEY COURT, STRADBROKE ROAD, LOWESTOFT, SUFFOLK NR33 7HZ

File Reference No.:	CAM/42UH/F77/2006/0104
Landlord:	Housing 21, 9 Avro Court, Ermine Business Park, Huntingdon, Cambridgeshire PE29 6WG
Landlord's Agent:	Housing 21, The Triangle, Baring Road, Beaconsfield, Buckinghamshire
Tenant:	Mrs LD Lockwood
Previous Rent:	£77.43 (including variable service charge of 27.43) per week capped under Rent Acts (Maximum Fair Rent) Order (Uncapped rent £84.50 (including variable service charge of £27.43) per week
Current Service Charge:	£37.86 per week comprising £26.27 Services, £3.63 Supporting People and £7.96 Fuel
Rent Proposed by Landlords:	£100.23 (including variable service charge of £37.86) per week
Rent Determined by Rent Officer:	£90.00 (including variable service charge of £35.87) per week which is lower or the same as the capped rent under Rent Acts (Maximum Fair Rent) Order 1999
Rent Determined by Committee:	£97.86 (including variable service charge of 37.86) per week capped under Rent Acts (Maximum Fair Rent) Order (Uncapped rent £94.36 (including variable service charge of £37.86) per week
Members of the Committee:	Mr JR Morris (Chairman) Mr JB Shrive FRICS FAAV Mr R Rehann
Clerk to the Committee:	Ms J Zaban

The Tenancy:

The tenancy appears to be a statutory weekly periodic tenancy, which commenced on 31st October 1980. The tenancy is for a dwelling house (being a building or part of a building let as a private residence) granted on or after 24th October 1961 for a term of less than 7 years therefore section 11 of the Landlord and Tenant Act 1985 applies in relation to the Landlord's repairing liability. Under the agreement the Landlord redecorates on a 5-year cycle and replaces white goods on a 10-year cycle.

The Application:

A rent of £77.43 (comprising rental element of £50 and variable service charge of £27.43) per week capped under Rent Acts (Maximum Fair Rent) Order 1999 was registered on 22nd June 2004 and effective from that date. The uncapped rent was £84.50 (including variable service charge of £27.43) per week. The Landlord by a notice in the prescribed form received by the Rent Office 12th October 2006 proposed a new rent of £100.23 (including variable service charge of £37.86 comprising £26.27 Services, £3.63 Supporting People and £7.96 Fuel) per week. On the 30th October 2006 the Rent Officer registered a rent effective from that date of £90.00 (including a variable service charge of £35.87) per week that was lower or the same as the capped rent under Rent Acts (Maximum Fair Rent) Order 1999. On 7th November 2006 the Landlord applied to the Rent Assessment Panel.

The Property:

The Property is a self-contained purpose built ground floor flat in a 3-storey Building of 31 flats constructed circa 1975 of brick with a flat roof. Access to the property is via a door entry system to a common hallway and stairway. The Property comprises an entrance hall, a living

room/kitchen, a bedroom and a bathroom or shower room with w.c. Water and space heating is by a central heating system, which serves the whole Building. There is a quiet room, a common room and kitchen, a laundry and a guest room. The Building has mains electricity, water and drainage. There are communal grounds around the Building, a drying area and a parking area. The Building is situated in a residential area within walking distance of local shops. The property is let unfurnished.

Condition:

The Committee inspected the Building and Property in the presence of the Tenant and Mr Alan Sutton, the warden. The exterior of the building is in fair condition. The common parts are well maintained and pleasant. Internally the property has a modern fitted kitchen area and shower room. The landlord provides white goods.

Law:

Attached to this Statement of Reasons is a resumé of the law applied by the Committee.

Evidence

The Landlord submitted that the rent was not set at a high enough level that is fair and reasonable in comparison to rent of other tenants on the court or other local rents considering the rent is to remain in place for two years. The Landlord also provided a Schedule of cost of items in the variable service charge and a statement of the utility charges for fuel and water.

Determination

In response to the Landlord's submission it should be noted that the rent is set using a market rent as a base in accordance with section 70 Rent Act 1977 in pursuance of which a deduction may be made, where appropriate, for matters such as scarcity. In assessing a market rent the Committee consider so far as possible comparable market rents (i.e. those let on Assured and Assured Shorthold tenancies) for the type of property in the locality. The rent is assessed as at the date of the determination irrespective of any future review under the legislation. The rent is capped under Rent Acts (Maximum Fair Rent) Order 1999 unless exempt. There may be a difference in rent between Assured Tenancies under the Housing Act 1977 and Regulated Tenancies under the Rent Act 1977 as they are different types of tenancy with different regulation.

The Committee noted the Schedule of items and their cost in the variable service charge and a statement of the utility charges for fuel and water and determined them to be reasonable. It was noted that the service charge at the time of the determination was £37.86 per week comprising £26.27 Services, £3.63 Supporting People and £7.96 Fuel.

The Committee using the experience of its members determined that a market rent for a property similar to the Property, taking into account its location, in good condition with upvc sealed double glazed windows, central heating, modern kitchen and bathroom, and let with carpets, curtains and white goods on an Assured Shorthold Tenancy as at the date of determination and including the services provided would be £117.86 per week comprising rental element of £80 and services of £37.86). However the Committee considered that a global deduction of £10.00 per week from the rental element should be made in respect of the subject property to take account of the lack of carpets and curtains and that comparable properties on the open market are larger than the Property. It should be noted that this figure cannot be a simple arithmetical calculation and is not based specifically upon capital cost but is the Committee's estimate of the amount by which the rent would have to be reduced to attract a tenant.

Scarcity

It was decided that there is substantial scarcity of "... similar dwelling-houses in the locality..." in this case North East Suffolk and adjacent areas of Norfolk that are available for letting and a deduction would be made to reflect this of 12.5 %

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Committee's Calculations:

Open Market Rent including service charge	£117.86 per week
Less variable service charge	£37.86
Open Market Rent excluding variable service charge	£80.00
Less global deduction	<u>£10.00</u>
	£70.00
Less Scarcity 12.5%	<u>£8.75</u>
	£61.25
 Rental element say	 £60.00 per week
Add variable service charge	<u>£37.86</u>
Rent determined	£97.86 per week

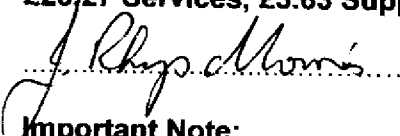
'Uncapped' fair rent £97.86 per week (comprising £60.00 per week rental element and £37.86 variable service charge comprising £26.27 Services, £3.63 Supporting People and £7.96 Fuel)

The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent or the Fair Rent decided by the Committee whichever is the lower. The capped Fair Rent is calculated in accordance with a statutory formula using the existing rent as a base. However Paragraph 2(7) of the Order provides that capping does not apply if "because of a change in the condition of the dwelling house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for a registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed".

The Committee found that the Landlord had fitted a new kitchen in 2005. In this case the rental element of the previous rent was £50 per week and 15% of this would be £7.50 per week. The Committee noted that prior to the Landlord's improvement the kitchen was dated and in poor condition. The Committee considered that if the property did not have the improvements an additional deduction would have been made which would have given an uncapped rental element of £54.00 per week. Therefore the amount of the rental element attributable to the improvement would be £6.00, which is less than 15% of the previous registered rent, and so the new rent is not exempt from the 'capping' provisions of the Rent Acts (Maximum Fair Rent) Order 1999. Therefore the capped rent of £94.36 per week (comprising £56.50 rental element and £37.86 variable service charge) is to be registered.

FAIR RENT = £94.36 per calendar month

(comprising £56.50 rental element and £37.86 variable service charge comprising £26.27 Services, £3.63 Supporting People and £7.96 Fuel)

 John R Morris, Chairman

Important Note:

This is a summary of the Committee's reasons for its decision. Should you require more detailed reasons, they can be supplied but only if a written request for such reasons is received by the Panel Office within 21 days from the receipt of this document. The papers will then be returned to the Chair for such detailed reasons to be prepared.

Caution: For the purpose of reaching a decision the Committee inspected the subject properties. Such inspection is not a structural survey and any comments about the condition of the properties in this Statement of Reasons must not be relied upon as a guide to the structural condition of the properties.