

## SOUTHERN RENT ASSESSMENT COMMITTEE

### Extended Reasons for Decision.

#### Rent Act 1977

##### Address of Premises

Numbers 3,11,21,23,36,40 and 41 Duchess of Kent Court, Hall Road, AYLESFORD Kent ME20 7RA
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##### The Committee members were

Mr J.B. Tarling MCMI (Lawyer/Chairman) Mr R. Athow FRICS MIRMP Mr P.A. Gammon MBE BA
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Case No.	Property
CHI/29UP/77M/2006/0003	3 Duchess of Kent Court
CHI/29UP/77M/2006/0004	11 Duchess of Kent Court
CHI/29UP/77M/2006/0005	21 Duchess of Kent Court
CHI/29UP/77M/2006/0006	23 Duchess of Kent Court
CHI/29UP/77M/2006/0007	36 Duchess of Kent Court
CHI/29UP/77M/2006/0008	40 Duchess of Kent Court
CHI/29UP/77M/2006/0009	41 Duchess of Kent Court

#### 1. Background

On 2<sup>nd</sup> October 2006 the landlord applied to the rent officer for registration of a fair rent of £98.75 per week for each of the above properties.

The rent payable at the time of the application was £82.25 per week

The rent was previously registered on 22<sup>nd</sup> June 2004 with effect from the same date at £81.00 per week following a determination by the rent officer.

On 5<sup>th</sup> December 2006 the rent officer registered a fair rent of £87.00 per week including £20.70 per week in respect of services(variable) with effect from that date.

By a letter dated 7<sup>th</sup> December 2006 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 properties on 14<sup>th</sup> February 2007 and found them all to be in good condition. All the properties were sheltered accommodation in the former Royal British Legion Village at Aylesford. The buildings were all purpose-built as sheltered accommodation with the usual communal facilities such as a shared laundry room, communal residents lounge and extensive gardens. There were two floors of accommodation with linked passages and pathways between them. On each staircase there was a stairlift for those residents with limited mobility. All the properties had double-glazed windows and front doors and they all had recently installed electric storage heaters which provided central heating. All of the bathrooms had recently

been upgraded and had walk-in showers. The landlord had provided the carpets and cooking facilities. The tenants had provided their own fridges.

All the properties had one bedroom each, but the bedrooms in Numbers 3 and 23 were only single bedrooms and were very much smaller than the bedrooms in the remainder of the properties which were double bedrooms. The floor area in Numbers 3 and 23 was approximately 31 square feet, while the remainder of the units had a floor area of approximately 44 square feet. The double bedroom units felt very much larger than the single bedroom units.

None of the tenants of any of the units had made any material improvements to their properties.

The registered rent includes a sum for the services as listed on the rent register.

### **3. Evidence**

The Committee received written representations from the landlord and the tenant of unit Number 41 and these were copied to the parties

None of the parties 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 considered what rent the landlord could reasonably be expected to achieve for the properties in the open market if they were let today in the condition that is considered usual for such an open market letting. It did this by having regard to the Committee's own general knowledge of market rent levels in the County of Kent.

First of all the Committee reviewed the written evidence supplied by the parties.

## **6. The landlords evidence**

The landlord had produced a document entitled "Secure Rent Appeal Information" dated 2<sup>nd</sup> January 2007. This suggested that there was a difference between the units occupied by a single person and those units occupied by two people. In other words the landlord appeared to be making a distinction between the units with a single bedroom and smaller floor area, to those with a double bedroom and larger floor area. The landlord had provided an analysis showing assured rents at £58.49 for 1P1BFL (which the Committee assumed to be a one person one bedroom flat) and £62.62 for 2P1BFL (which the Committee assumed to be a two person one bedroom flat) The landlord had not produced any further evidence as to how it had arrived at the figures of £58.49 or £62.62. Nor had it provided any market rental evidence in the wider market, in support of its appeals. The landlord's document gave as the reasons for the appeal "The increase given *by the rent officer* is insufficient to cover the next two years rent increases." The document failed to explain what it meant and how it had calculated its figures. Accordingly the Committee thought the document to be unreliable and did not contain any factual evidence in which the Committee could safely rely.

## **7. Tenants evidence**

Mr A. Prentice, the tenant of unit 41 had written a letter in which he appeared to agree with the rent assessed by the rent officer. He considered that the increase requested by the landlord was excessive. He said he considered the recent redecorations to have been unnecessary and that the new bathrooms had been paid for in part by a Council Grant. Mr Prentice did not refer the Committee to any comparable market rents in support of his objection to any increase to the rent proposed by the landlord.

## **8. Consideration**

The Committee then considered if there was any material difference between the seven units it had inspected. The Committee decided that it had become clear from the inspection that the units with a single bedroom and smaller floor area were materially different from the units with a double bedroom and larger floor area. The Committee then considered whether this would affect the market rent which each type of unit might attract in the open market. Using its expert knowledge and experience, the Committee decided that the smaller units were less attractive than the larger units and hence the smaller units would not be able to be let at as high a rent as the larger units. The Committee decided, using its expert knowledge and experience and in the absence of any comparable evidence from either the landlord or any of the tenants, that a likely market rent for the larger double bedroom units would be £120.00 per week and £100.00 per week for the smaller single bedroom units.

The Committee then considered whether the properties were in a condition considered usual for a modern letting at a market rent. They had all been recently decorated and had new electric storage heaters installed which provided sufficient central heating. They all had double glazed windows and recently installed new bathrooms. The kitchens were all of a modern style with modern facilities. None of the tenants had made any material improvements. Accordingly the Committee decided there was no need to consider making any deductions from the market rent as all the units were in a good condition and would be likely to be let very easily.

## **9. Scarcity**

The Committee reminded itself that all of these units were sheltered housing with a very high level of support services. There was a resident warden, communal laundry facilities, residents communal lounge, shared gardens, parking and a guest bedroom facility. In the Committee's experience, this type of accommodation is very much sought after in this area and it is highly likely that there would be a waiting list of prospective tenants. Accordingly the Committee found that there was substantial scarcity in the County of Kent for this type of accommodation and therefore deducted a sum of 10% from the market rent to reflect this element.

#### **10. The Committee's calculations**

The Committee made the following calculations to reach a new uncapped registered rent:

**Units numbered 3 and 23** – smaller single bedroom units of 31 square feet floor area.

Market rent £100.00 per week less scarcity of 10% (£10) = £90.00 per week

To this must be added the weekly service charge of £20.70 per week

TOTAL £110.70 per week

**SAY £111.00 per week**

**Units numbered 11, 21, 36, 40 and 41** – larger double bedroom units of 44 square feet floor area.

Market rent £120.00 per week less scarcity of 10% (£12.00) = £108.00 per week

To this must be added the weekly service charge of £20.70 per week

TOTAL £128.70 per week

**SAY £129.00 per week**

#### **11. Decision**

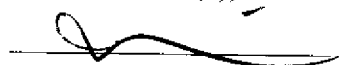
The fair rent initially determined by the Committee, for the purposes of section 70, was £111.00 per week inclusive of £ 20.70 per week in respect of services for Units 3 and 23, and £129.00 per week inclusive of £20.70 per week in respect of services for Units 11, 21, 36, 40 and 41.

However, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be registered in all of these cases is the lower sum of £97.70 per week inclusive of services (Details are provided on the back of the decision form).

**Accordingly the sum of £97.70 per week inclusive of services of £20.70 per week will be registered as the fair rent in respect of all of these cases with effect from 14<sup>th</sup> February 2007 being the date of the Committee's decision.**

The registered rent is to be entered as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)).

Chairman



John B. Tarling, MCMI

Dated 23<sup>rd</sup> February 2007