

Notice of the Rent Assessment Committee Decision

Rent Act 1977 Schedule 11

Address of Premises

FLAT 18 WALCOT GARDENS, 136
KENNINGTON ROAD, LONDON, SE11 6RB

The Committee members were

MR P J KORN
MR F W J JAMES FRICS
MRS A MOSS

Landlord Walcot Educational Foundation

Tenant Mr R Eaton

1. The fair rent is £ 1229.50 Per quarter (excluding water rates and council tax but including any amounts in paras 3&4)

2. The effective date is 19 December 2006

3. The amount for services is £ negligible Per

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

£ not applicable Per

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 fair rent to be registered is the maximum fair rent as prescribed by the Rent Acts (Maximum Fair Rent) Order 1999. The rent that would otherwise have been registered was £ 2135.00 per quarter.

Chairman P Korn

Date of Decision 19 December 2006

MAXIMUM FAIR RENT CALCULATION

LATEST RPI FIGURE x 200.4

PREVIOUS RPI FIGURE y 188.6

X 200.4 Minus y 188.6 = (A) 11.8

(A) 11.8 divided by y 188.6 = (B) 0.062566

First application for re-registration since 1 February 1999 NO

If yes (B) plus 1.075 = (C)

If no (B) plus 1.05 = (C) 1.112560

Last registered rent* 1150.20 Multiplied by (C) = 1229.39
 *(exclusive of any variable service charge)

Rounded up to nearest 50 pence = 1229.50

Variable service charge NO

If YES add amount for services

MAXIMUM FAIR RENT = 1229.50 Per quarter

Explanatory Note

- The calculation of the maximum fair rent, in accordance with the formula contained in the Order, is set out above.
- In summary, the formula provides for the maximum fair rent to be calculated by:
 - increasing the previous registered rent by the percentage change in the retail price index (the RPI) since the date of that earlier registration and
 - 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.
- For the purposes of the calculation the latest RPI figure (x) is that published in the calendar month immediately before the month in which the Committee's fair rent determination was made.
- The process differs where the tenancy agreement contains a variable service charge and the rent is to be registered as variable under section 71(4) of the Rent Act 1977. In such a case the variable service charge is removed before applying the formula. When the amount determined by the application of the formula is ascertained the service charge is then added to that sum in order to produce the maximum fair rent.

Rent Assessment Committee: Summary reasons for decision

Rent Act 1977

Address of Premises

Flat 18, Walcot Gardens
136 Kennington Road
London
SE11 6RB

The Committee members were

Mr P J Korn
Mr F W J James FRICS
Mrs A Moss

1. Background

On 15 August 2006 the landlord applied to the rent officer for registration of a fair rent of £1237.60 per quarter for the above property.

The rent payable at the time of the application was £1105 per quarter.

The rent was previously registered on 7 October 2004 with effect from the same date at £1105 per quarter following a determination by the rent officer.

On 26 September 2006 the rent officer registered a fair rent of £1218.50 per quarter with effect from 7 October 2006.

By a letter dated 25 October 2006, the tenant 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 19 December 2006 and found it to be in fair to good condition.

The Committee was unable to gain access at the appointed time in order to inspect the property internally and therefore made an external inspection only.

3. Evidence

The Committee received written representations from the tenant and these were copied to the landlord. No written representations were received from the landlord.

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).

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 Lambeth North. Having done so it concluded that such a likely market rent would be £3900 per quarter.

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 £3900 per quarter 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 £1053 per quarter.

This leaves an adjusted market rent for the subject property of £2847 per quarter.

The Committee found that there was substantial scarcity in the locality of Greater London and therefore made a deduction of 25% 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 £2135 per quarter.

However, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be registered in the present case is the lower sum of £1229.50 per quarter inclusive of services (Details are provided on the back of the decision form).

Accordingly the sum of £1229.50 per quarter inclusive of services will be registered as the fair rent with effect from 19 December 2006 being the date of the Committee's decision.

Chairman: P J Korn

Dated: 19 December 2006

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