

Rent Assessment Committee: Extended reasons for decision

Housing Act 1988

Address of Premises

32 Hunt Road
Poole
Dorset
BH15 3QD

The Committee members were

Mr S Griffin LLB (Chairman)
Mr K M Lyons FRICS
Mr J Mills

1 Background

On 14th June 2006 the tenant of the above property referred to the Committee a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.

The landlord's notice, which proposed a rent of £650 per calendar month with effect from 1st August 2006 is dated 23rd May 2006.

The tenancy is a statutory periodic tenancy by succession which arose on the death of the former tenant. The rent payable is £159.00 per calendar month.

In summary it appeared to the committee that the subject property was originally let under a regulated tenancy pursuant to the Rent Act 1977 to Mr Charles Kilby who resided there with his two daughters Beryl and Joan. Mr Charles Kilby died in 1968 and his tenancy passed under Part 1 of Schedule 1 of the Rent Act 1977 to his daughter Joan, a family member who was residing with him at the time of his death and for 6 months preceding that date as the "first successor" to the tenancy.

Joan herself died in 1991. Prior to her demise she had effected numerous improvements to the property, most notably.

- 1 Rewired the entire house
- 2 Installed night storage heaters in three rooms
- 3 Installed gas fire in dining room, with tile surround.
- 4 Installed replacement kitchen sink and all kitchen units.

Under section 39(3) of the Housing Act 1988 where the 1st successor dies, after the operative date of the Housing Act 1988, (15th January 1989) part 1 of schedule 1 of The Rent Act 1977 has effect subject to the amendments provided for, in paragraphs 5-9 of part 1 of schedule 4 of the Housing Act 1988. Thus as Joan died in 1991 the tenancy succession was to an assured tenancy within the meaning of the Housing Act 1988, and not a statutory tenancy. This presupposes that the tenant was a member of Mr Kilby's family immediately before his death and a member of Joan's family immediately before her death and upon her residing with Joan at and for 2 years

preceding Joan's death. The Committee had no evidence put before it to suggest to the contrary. The tenant is therefore "second successor" and is an assured tenant. An assured tenancy acquired by succession in this way is a new tenancy the effect of which (inter alia) is to reduce into the possession of the Landlord the improvements as listed above items 1 to 4 and to exclude such items from being construed as qualifying tenants improvements.

2 Inspection

The committee inspected the property on 8th August 2006 and found it to be in good condition.

3 Evidence

The committee, received written representations from the Landlord and the tenant and these were copied to the parties.

The Landlord in a letter of the 12th July 2006, provided the Committee with a narrative comment as to the history of the letting, and put in evidence extract of properties in the same postcode area showing the asking rents in support of the requested uplift of rental to £650.00 per calendar month. However, the committee apprehended that these were asking rents, not passing rents and the properties varied from terraced to detached.

The tenant in her written representation reiterated her objection to the proposed increase and commented (inter alia) on the alleged inadequacy of the double glazed window units.

A hearing was held at Christchurch Civic offices on 8th August 2006 in the Council Chamber at which oral representations were made by the Landlord. The tenant was not present nor represented.

4 The Law

In accordance with the terms of section 14 Housing Act 1988 the Committee proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

In so doing the Committee, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

(It will be recalled however, that by virtue of the new tenancy, the tenants improvements had now to be construed as improvements by the Landlord.

In coming to its decision the Committee had regard to the evidence supplied by the Landlord and the members' own general knowledge of market rent levels in the area of the Bournemouth and Poole conurbation. The Committee concluded that the appropriate market rent for the property would be £700.00 per calendar month.

However, the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore it was necessary to adjust that hypothetical rent of £700 per calendar month to allow for the difference between the condition considered usual for such a letting and the condition of the actual property as observed by the Committee.

The Committee considered that this required a deduction of £86.66 per calendar month. The deductions made by the Committee were:


	£ per calendar month
Lack of carpets curtains and whitegoods	£47.66
Tenants decorating responsibility	£26.00
Dated bathroom	<u>£13.00</u>
Total deductions per calendar month	<u>£86.66</u>

The Committee therefore concluded that the rent at which the property might reasonably be expected to be let on the open market would be £613.34 per calendar month.

The Committee was however mindful that before it can make a determination it has to be satisfied :

- a) that there are a sufficient number of similar dwelling houses in the locality let on assured tenancies (whether shorthold or not) and
- b) the subject rent is significantly higher than rents payable under (a) above. It was apparent to the Committee that the Landlords proposed new rent of £650 per calendar month was not significantly higher and the committee therefore considered itself unable to make a determination in this matter.

Chairman.....

Dated.....

2006

These are the extended reasons for the Rent Assessment Committee's decision