

Southern Rent Assessment Panel
Ref No.

File

CHI/24UG/F77/2004/0200

Rent Assessment Committee: Reasons for decision.

Rent Act 1977

Address of Premises

2 Hartford Bridge Flats
 Hartley Wintney
 Hants
 RG27 8BH

The Committee members were

Mr. J H S Preston JP FRICS
 Mr. D Lintott FRICS
 Mr. D Wills ACIB

1. Background

On 3 August 2004 the landlord, The Trustees of the Elvetham Combined Fund by their agents FPD Savills, applied to the Rent Officer for registration of a fair rent of £1131.00. per quarter for the above property.

The rent payable at the time of the application was £1107.00 per quarter.

The rent was previously registered on 22 August 2002, with effect from 15 September 2002 at £1107.00 per quarter following a determination by the Rent Officer. The uncapped fair rent was stated to be £1248.00 per quarter.

On 23 September 2004 the Rent Officer registered a fair rent of £1228.00 per quarter with effect from 23 September 2004 and stated that the uncapped rent was £1406.75 per quarter.

By a letter dated 24 September 2004 the tenant, Mr. and Mrs. T R Englefield, 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 3 November 2004, in the presence of the tenant.

The property is a semi-detached house built in the late 18th century. The accommodation comprises: -

Ground Floor: Hall; Sitting room; Kitchen; Larder; WC; Bathroom.

First Floor: Two Bedrooms;

There is oil-fired central heating. Main electricity and water are connected. Drainage is to a septic tank.

The house is in fair condition. The following specific defects were noted: -

- Rotted timber to external door.
- Rising and penetrating damp to walls
- Condensation, dampness and discoloration to 1st. floor sceilings and in all ground floor rooms.
- Lack of insulation to sceilings and roof space.

There is a large garden backing on to woodland and space for parking cars.
The property is situated off the A 30 road about one mile east of Hartley Wintney and is affected by traffic noise.

3. Evidence

The Committee received no written representations from the landlord.
The tenant made written representations in their letter of 24 September. They drew attention to the fact that the registered rent was greater than that applied for by the Landlord. They also commented on the poor condition of the house, which they said resulted from the Landlord's neglect. They provided a copy of the tenancy agreement dated 21 October 1977, in which Mr. T R Englefield is stated to be the tenant.

Neither party requested a hearing at which oral representations could be made.

4. The Consideration and Decision

When determining the 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. The personal circumstances of either party cannot be taken into account.

The provisions of Section 11 of the Landlord and Tenant Act 1985 now largely supercede the parties' maintenance obligations under the tenancy agreement

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 emphasized (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.

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. In the absence of any evidence supplied by the parties, the Committee relied upon its own general knowledge of market rent levels in the area of Hartley Wintney and Hook. Having done so it concluded that the market rent would be £725.00 per month.

This rent would be for a property in a good state of repair and decoration with central heating and modern kitchen and bathroom. In view of their findings as to the deficiencies in the property, the Committee considered that it was appropriate to make the following deductions, totaling £310.00 per month from market rent: -

1. Lack of white goods and carpets
2. Lack of modern kitchen and bathroom
3. The poor layout of the accommodation
4. Tenant's repair liabilities under this tenancy
5. Disrepair, including lack of insulation, damp walls and poor electrical installation.

The Committee did not consider that there was any substantial scarcity element and accordingly no deduction was made for scarcity.

The fair rent determined by the Committee is accordingly £415.00 per month. (£1245.00 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 £1236.00 per quarter. (Details are provided on the back of the decision form).

Accordingly the sum of **£1236.00 per quarter** will be registered as the fair rent with effect **from 3 November 2004** being the date of the Committee's decision.

(signed)

Signed _____ J H S Preston (Chairman)

Dated 3 November 2004
