

EASTERN RENT ASSESSMENT PANEL

STATEMENT OF REASONS FOR THE DECISION OF THE COMMITTEE WHICH MET ON 12th MAY 2003 TO DETERMINE A FAIR RENT IN RESPECT OF MIDDLE LODGE, GREENFIELD, CHRISTMAS COMMON, WATLINGTON, OXFORDSHIRE, OX49 5HJ

| | |
|----------------------------------|--|
| File Reference No.: | CAM/38UD/F77/2003/0040 |
| Landlord: | Mrs G Dungels-Winkler |
| Landlord's Agent: | Strutt & Parker, 55 Northbrook Street, Newbury, Berkshire RG14 1AN |
| Tenant: | Mr D Clements |
| Existing Rent: | £166.67 per calendar month |
| Rent Proposed by Landlords: | £450.00 per calendar month |
| Rent Determined by Rent Officer: | £364.00 per calendar month (1st Registration therefore exempt from Capping under Rent Acts (Maximum Fair Rent) Order) |
| Rent Determined by Committee: | £343.00 per calendar month |
| Members of the Committee: | Mr JR Morris LLM (Chairman) Mr R Auger FRICS Lady Yardley |
| Clerk to the Committee: | Mrs R Viknaraja |

Note: the parties requested full reasons.

THE PREMISES

1. The subject property is a detached two-storey house of brick under a tiled roof constructed in 1911.

Accommodation

The accommodation comprises a corridor to which access is gained via the backdoor off which are a kitchen with dining area, a bathroom and wc and a living room into which the front door opens. At the end of the corridor are the stairs to the first floor where there are three bedrooms. Outside there is a timber garage constructed by the Tenant and a garden area around the house. There is off road parking.

Services

The property has mains electricity and water. Drainage is by a cesspit. Space heating is by a hearth fire in the living rooms and Tenant's appliances. Water heating is by an immersion heater.

Furnishing

The property is let unfurnished.

Location

The property is situated behind the security gates of the Watlington Park Estate about a mile from Christmas Common village. The nearest shopping is in Watlington about 2 miles away.

THE TENANCY

2. The Tenancy commenced in 1973 and appears to be a monthly periodic statutory tenancy under the Rent Act 1977. According to the Rent Register the Landlord is responsible for repairs and external decorations and the Tenant is responsible for minor internal repairs and decorations. Section 11 of the Landlord and Tenant Act 1985 applies in respect of the Landlord's liability for repairs, the tenancy not being for a fixed period of 7 years.

THE APPLICATION

3. The Landlord's Agent by a notice in the prescribed form applied for a new rent of £450.00 per calendar month week on the on the 16th December 2002. On the 3rd March 2003 the Rent Officer registered a rent for the subject property of £364.50 per calendar month effective from the date of registration. The Registered Rent was not capped under Rent Acts (Maximum Fair Rent) Order, as it was a first registration. The Tenant wrote to the Rent Officer objecting to the new registered rent on the 10th March 2003 and an application was made to the Rent Assessment Committee. The Committee inspected the property on the 12th May 2003 in the presence of the Tenant. The parties asked for the application to be by written representations only.

THE INSPECTION

4. The Committee inspected the property on 12th May 2003 in the presence of the Tenant. The exterior of the property was in generally poor condition. Although the property had been painted about three years ago the wooden windows showed signs of rot. The brickwork was also in need of re-pointing and the guttering and down pipes appeared to be leaking in several places. The drainage runs into an open cesspit a short distance from the house and is inadequate. The roof appeared to be in need of overhauling and there were signs of water penetration internally.
5. Internally the kitchen was basic and dated. The plaster in part of the ceiling was coming away for the laths and there were signs of rising damp in the dining area. The solid fuel boiler was cracked and could not be used due to emission of fumes. The central heating, which ran off the boiler, was therefore inoperative. The living room had an open fire and wooden partition wall. The bathroom was dated. A shower and heater had been provided by the Tenant who had also replaced the cistern of the wc. A section of the wooden floor in one of the bedrooms appeared to be rotten and there was evidence of the roof leaking. The bedroom windows did not appear to close properly. The wiring appeared to be inadequate with many of the sockets being of the obsolete 'round-pin' variety and the cable that could be seen was rubber as opposed to pvc covered. No carpets, curtains or white goods were provided.

THE TENANT'S CASE

6. The Tenant made written representations enclosing a copy of a letter dated 17th April 2003 from South Oxfordshire District Council pursuant to the Housing Act 1985. The letter listed the defects as follows:
 - The electrical circuit
 - The window in bedroom 1 is not weatherproof
 - The windows in the sitting room only open during the summer months
 - Defective drainage
 - Broken down pipe
 - Broken and loose roof tiles
 - Solid fuel stove is cracked causing fumes to leak into the kitchen
 - Damaged plasterwork on the kitchen ceiling
 - Blown and damaged plasterwork in bedroom 1 indicating water penetration
 - Cess pit appears unsatisfactory
7. The Tenant produced his own list of defects drawing attention to:
 - The leaking solid fuel stove
 - The dangerous wiring
 - The kitchen ceiling falling down
 - The cold water supply being served by a lead pipe
 - Severe damp in the kitchen and bathroom
 - Rotten skirting boards
 - Open cesspit sewerage
8. The Tenant also stated that he suffered from a disease of the spine which meant that he could not drive more than 5 miles.

THE LANDLORD'S CASE

9. The Landlord's Agent made written representations stating that the Rent Officer's assessment was lower than that of comparables in the locality. However the Agent recognised that all the properties on the Estate are in a tired condition and have had little money spent on repairs and improvements in recent years. The Agent had noted on inspecting the subject property on 31st January 2033 that repairs to the electrics were required and that the drainage was inadequate and has instructed builders to inspect and arrange repairs.

THE LAW

10. Attached to this Statement of Reasons is a resumé of the law as applied by the Committee, which forms an integral part of the Reasons of the Committee.

THE DETERMINATION

11. The Committee assessed the rent for the subject property as at the day of the inspection pursuant to section 70(1) Rent Act 1977 (having regard in particular to the age, character, locality, state of repair of the property and all the circumstances other than personal circumstances) taking into account of the relevant cases and legislation

including *Spath Holme Ltd v Greater Manchester Rent Assessment Committee* (1996) 28 HLR 107, *Curtis v The London Rent Assessment Committee* [1997] 4 All ER 842 and *BTE Ltd v Merseyside and Cheshire Rent Assessment Committee* 24th May 1991.

12. The assessment of a Fair Rent starts with an assessment of the open market rent. Neither of the parties offered evidence of comparable rents and therefore the Committee used the considerable knowledge and experience of its members. The Committee's view was that the open market rent for the subject property let on an Assured Shorthold Tenancy taking into account its location, in good condition with modern kitchen and bathroom, double glazing, central heating and carpets, curtains and some white goods would be £850.00 per calendar month.
13. However the subject property does not have these benefits. The Committee has therefore made a global deduction in the region of 50% to reflect the following matters:
 - The lack of central heating due to the defective stove
 - The dated bathroom
 - The dated and basic kitchen
 - Inadequate electrics
 - The poor condition of the property including the need for: external re-decoration, overhauling of the roof, re-pointing of brickwork, the repair of guttering and down pipes, repair of ceilings, replacement and/or repair of windows, floor boards and skirting. Also damp was apparent and the drainage appeared to be inadequate as mentioned in the paragraphs relating to the inspection.
 - In addition the property is let without carpets, curtain or white goods.

It should be noted that this figure cannot be a simple arithmetical calculation but is the Committee's estimate of the amount by which the rent would have to be reduced to attract a tenant.
14. As to scarcity, the Committee decided that there is substantial scarcity of "... similar dwelling houses in the locality..." available for letting and a deduction would be made to reflect this. The matters taken into account by the Committee were:-
 - a. The Committee interpreted the "locality" for scarcity purposes as being Oxfordshire i.e. a sufficiently large area to eliminate the effect of any localised amenity, which would, in itself, tend to increase or decrease rent.
 - b. The members of the Committee have many years of experience of the residential letting market between them and that experience leads them to the view that demand consistently exceeds supply for similar properties to the subject property in the locality defined above.
 - c. The Committee noted that there were many people on the waiting lists of Local Authorities and Housing Associations in the locality and that such lists were increasing. It decided that whilst not everyone on those lists would be seeking a similar property to the subject property in the private sector, a significant number would.

15. Assessing a scarcity percentage cannot be a precise arithmetical calculation because there is no way of knowing either the exact number of people looking for properties similar to the subject property in the private sector or the exact number of such properties available. It can only be a judgement based on the years of experience of members of the Committee. That combined experience leads the Committee to the view that demand is particularly high for properties similar to the subject property in this locality and the scarcity deduction is assessed at 15%.

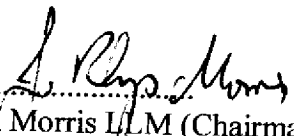
SUMMARY

| | |
|-----------------------|-----------------------------------|
| 16. Open Market Rent: | £850.00 per calendar month |
| Less global deduction | <u>£446.00 per calendar month</u> |
| | £404.00 per calendar month |
| Less Scarcity 15% | <u>£ 60.60 per calendar month</u> |
| | £343.40 per calendar month |

'Uncapped' fair rent say £343.00 per calendar month

The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 did not apply as this was a first registration.

FAIR RENT = £343.00 per calendar month

Signed 
John R Morris LLM (Chairman)

Caution: The Committee inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in this Statement must not be relied upon as a guide to the structural or other condition of the property.

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