

Rent Assessment Committee: Summary reasons for decision. Rent Act 1977

Address of Premises

4 Willow Cottages
Underwood Road
Plympton
Plymouth
Devon PL7 1TF

The Committee members were

Mr D Sproull LLB (Chairman)
Mr T N Shobbrook BSc FRICS
Mr M T Creek MBE

1. Background

On 4 June 2004 the landlord applied to the rent officer for registration of a fair rent of £65.00 per week for the above property.

According to the application form, the rent payable at the time of the application was £42.00 per week although this should have been capped to £38.50 per week by virtue of the Rent Acts (Maximum Fair Rents) order 1999. The Rent had been fixed at these figures following a determination by the Rent Officer on the 16th March 2000.

On 12 July 2004 the rent officer registered a fair rent of £45.00 per week with effect from that date. Again the Rent Acts (Maximum Fair Rents) order applied. The uncapped rent, according to the Rent Officer, was £57.00 per week.

By a letter received 16 July 2004 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 property on 9th September 2004 and found it to be in fair condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties. The tenant's improvements specified in the Rent Officer's report had been carried out to the property.

3. Evidence

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

A hearing was held on 9th September 2004 in Plymouth at which oral representations were made by the landlord and her son Jonathan Pellow. The evidence from the Landlord was that she considered that a fair rent for the property would be £55.00 per week. The only comparable evidence given to the Committee was that an agency in Plympton had informed the Landlord that a two bedroom cottage could be let for up to £100.00 per week. Evidence was also given as to the considerable improvements carried out since the commencement of the tenancy some thirty years ago. There had been an arrangement between the present tenant's husband and the Landlord's father who then owned the property, whereby the Landlord would reimburse the Tenant with the cost of materials employed with the labour being contributed by the Tenant. The Tenant was not present or represented. Having inspected the property the Committee found that there were elements of disrepair in the form of outdated electrical wiring and dampness to the front wall probably caused by rising or penetrating damp.

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 Plymouth. Having done so it concluded that such a likely market rent would be £90.00 per week.

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 £90.00 per week 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 £10.00 per week.

Furthermore, to allow for the tenant's improvements referred to above it was necessary to make a further deduction of £5.00 per week, to allow for the Tenant's obligations to decorate internally a further deduction of £8.00 per week and in respect of disrepair a further deduction of £6.00 per week.

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

This leaves a net market rent for the subject property of £61.00 per week.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £61.00 per week.

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 £45.00 per week (Details are provided on the back of the decision form).

Accordingly the sum of £45.00 per week will be confirmed as the fair rent with effect from 9th September 2004 being the date of the Committee's decision.

Chairman (Signed) D Sproull LLB

Dated 13th September 2004

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 request to the committee clerk at the Panel Office which must be made within 21 days from the date of issue of this document.