

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

### **Address of Premises**

44 Ember Lane  
Esher  
Surrey  
KT10 8EP

### **The Committee members were**

Mr Benjamin Mire BSc (Est Man) FRICS  
Mrs Helen Bowers MRICS  
Mrs Juliet Playfair

## **1. Background**

On 15<sup>th</sup> May 2003 the landlord applied to the rent officer for registration of a fair rent of £580.00 per calendar month for the above property.

The rent payable at the time of the application was £481.00 per calendar month.

The rent was previously registered on 27<sup>th</sup> June 2001 with effect from the same date following a determination by the rent officer.

On 19<sup>th</sup> August 2003 the rent officer registered a fair rent of £524.50 per calendar month with effect from that date.

By a letter dated 21<sup>st</sup> August 2003 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 21<sup>st</sup> October 2003 and found it to be in fair external condition but poor internal condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The tenant had improved the property. By installing two gas fires and night storage heaters. He also extended the wiring provision within the premises.

At the inspection the tenant's wife handed the clerk a series of photographs which were copied to the parties for their comment, the committee postponing its determination for 14 days pending those comments.

### **3. Evidence**

The Committee received written representations from the landlord and/tenant and these were copied to the parties.

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 Committee's own general knowledge of market rent levels in the area of Esher. Having done so it concluded that such a likely market rent would be £1250.00 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 first necessary to adjust that hypothetical rent 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 £500.00 per calendar month.

Including an allowance for the tenant's improvements (listed above).

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 £750.00 per calendar month.

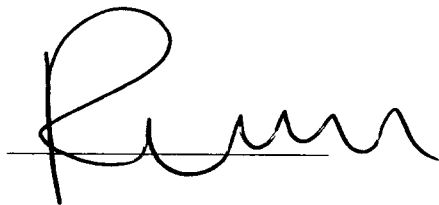
## 6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £750.00 per calendar month.

The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because by virtue of landlord's repairs and/or improvements to the fenestration since the previous registration the rent determined by the Committee exceeds by at least 15% the previous registered rent.

**Accordingly the sum of £750.00 per calendar month will be registered as the fair rent with effect from 13<sup>th</sup> November 2003 being the date of the Committee's decision.**

Chairman

A handwritten signature in black ink, consisting of a large, stylized 'B' followed by several loops and a wavy line at the end.

Mr B J C Mire BSc (Est Man) FRICS

Dated 14<sup>th</sup> November 2003

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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.