

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

### **Address of Premises**

18, Stewart Court,  
Millwey Rise,  
Axminster,  
EX13 5HS

### **The Committee members were**

T D George (Chairman)  
E G Harrison FRICS Chartered Surveyor  
Dr M L James MA BA FRSA

## **1. Background**

On 3<sup>rd</sup> October 2006 the landlords, Housing 21 applied to the rent officer for registration of a fair rent of £97.50 per week for the above property to include a variable service charge.

The rent payable at the time of the application was £81.30 per week including a variable service charge.

The rent was previously registered on 18<sup>th</sup> June 2004 with effect from the same date at £82.50 per week including a variable service charge following a determination by the rent officer.

On 14<sup>th</sup> November 2006 the rent officer registered a fair rent of £90.00 per week including a variable service charge of £19.30 per week with effect from the same date.

By a letter dated 21st November 2006 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 Thursday 11<sup>th</sup> January 2006 and found it to be in good condition as described more particularly in the Rent Officer's survey sheets which had been copied to the parties.

The services provided for the tenant, Mrs. N Phillips are direct staff services (including the warden), repairs, utilities for the communal areas, gardening, insurance,

renewal of assets, administration including supporting people charge. The tenant also has the use of the community room, kitchen, laundry room, w.c.'s, guest bedroom, drying area, gardens and car parking. The tenant would not permit access to the property, however, as all the flats are the same, the Committee decided to proceed to a determination.

### **3. Evidence**

The Committee received written representations from the landlords and these were copied to the tenant. No written representations were received from the tenant. No hearing was requested.

### **4. The law**

When determining a fair rent the Committee, in accordance with the Rent Act 1977, ("the Act") 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).

The Committee also has to have regard to the Rent Acts (maximum fair rent) order 1999 ("the order") where applicable. Most objections to and determinations of registered rents are now subject to the order, which limits the amount of rent that can be charged by linking increases to the retail price index. It is the duty of the Rent Assessment Committee to arrive at the fair rent under Section 70 of the Act ("uncapped rent") but in addition to calculate the maximum fair rent which can be registered according to the rules set out in the order ("capped rent"). If that maximum rent is below the fair rent calculated as above, then that maximum sum must be registered as the fair rent for 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 was let today in the condition that is considered usual for such open market lettings usually an Assured Shorthold Tenancy ("AST"). It did this by having regard to *Committee's own general knowledge* of market rent levels in the area of East Devon, South Somerset and West Dorset. Having done so it concluded that such a likely market rent would be £100.00 per week which the Committee reduced by £5.00 per week because the property is in an inferior position to other properties of its type.

However, the actual property is not in the condition considered usual for a modern letting at a market rent (usually an AST). Therefore, it was first necessary to adjust that hypothetical rent of £95.00 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 £2.50 per week in respect of the lack of carpets and curtains.

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

This leaves a net market rent for the subject property of £92.50 per week.

## **6. Decision**

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £92.50 per week. The landlords provide the services set out above for the sum of £19.30 per week which is payable by the tenant to the landlords. This sum is included in the rent of £92.50 per week. Therefore the total rent is £92.50 per week inclusive of a variable service charge but exclusive of council tax and rates.

The section 70 fair rent determined by the Committee is below the maximum fair rent permitted by the Order and accordingly that rent limit has no effect. Details of the maximum fair rent are provided on the back of the decision form.

**Accordingly the sum of £92.50 per week inclusive of a variable service charge of £19.30 per week and exclusive of council tax and rates will be registered as the fair rent with effect from 11<sup>th</sup> January 2007 being the date of the Committee's decision.**

Chairman



T D George

Dated

11<sup>th</sup> January 2007

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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.