

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

Address of Premises

Ground Floor Flat
34 Mighell Street
Brighton
East Sussex
BN2 0JF

The Committee members were

Mr John Tarling MI Mgt
Mr Brandon Simms FRICS MCIArb
Mrs Jan Morris

1. Background

On 23rd June 2003 the Landlord applied to the rent officer for registration of a fair rent of £120 per week for the above property.

The rent payable at the time of the application was £74 per week.

The rent was previously registered on 8th September 2000 with effect from that date at £3,952.00 per annum following a determination by the rent officer.

On 27th August 2003 the rent officer registered a fair rent of £85.50 per week with effect from that date.

By a letter dated 16th September 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 19th November 2003 and found it to be in the condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The following tenant's improvements had been made to the property:
Installation of new WC and Bath.

3. Evidence

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

A hearing was held on 19th November 2003 in Hove at which oral representations were made by the landlord and the tenant.

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 the geographical County of Sussex. Having done so it concluded that such a likely market rent would be £120.00 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 £120.00 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 £25.00 per week.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £5 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 £90.00 per week.

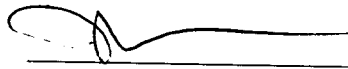
6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £90.00 per.

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 £85.00 per week. (Details are provided on the back of the decision form).

Accordingly the sum of £85.00 per week will be registered as the fair rent with effect from 19th November 2003 being the date of the Committee's decision.

Chairman



J.B. Tarling MCMI

Dated

19th November 2003

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.