

**THE SOUTHERN AREA RENT ASSESSMENT PANEL  
AND LEASEHOLD VALUATION TRIBUNAL**

**Case Number: CHI/24UD/F77/2005/0068**

**RENT ASSESSMENT COMMITTEE – REASONS FOR DECISION**

<b>Property:</b>	<b>97 Allbrook Hill, Eastleigh, Southampton</b>
<b>Committee:</b>	<b>Mr D Agnew, LLB, LLM (Chairman) Mr P Turner-Powell, FRICS</b>
<b>Hearing Date:</b>	<b>2<sup>nd</sup> June 2005</b>
<b>Place of Hearing:</b>	<b>The Wells Place Centre, Wells Place, Eastleigh</b>
<b>Landlord:</b>	<b>Ms S Glyn</b>
<b>Tenant:</b>	<b>Mrs H Parker</b>

**1. Background**

- 1.1 On 17<sup>th</sup> January 2005 the Landlord applied to the Rent Officer for registration of a fair rent of £625 per calendar month (£144.23 per week) for the above Property.
- 1.2 The rent payable at the time of application was £45 per week. The Landlord had sought to agree a rent increase to £75 per week as from November 2004. Apparently, one payment of £75 was made but £30 was subsequently refunded by the Landlord and the rent reverted to £45 per week.
- 1.3 On the 7<sup>th</sup> March 2005 the Rent Officer registered a rent of £87 per week with effect from that date.
- 1.4 By letter dated 21<sup>st</sup> March 2005 the Landlord objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

**2. Inspection**

- 2.1 The Committee inspected the property on 2<sup>nd</sup> June 2005 and found the exterior to be in good condition. The accommodation is described in the Rent Officer's Report which was copied to the parties. The Committee noted the following in addition:

- (a) The Property is situated on a very busy and noisy road. There is a tiny front garden and three steps lead from the pavement to the front door. Parking is difficult and the property has no off-road parking. Situated opposite the property are premises belonging to a company which supplies heavy lifting equipment, such as cranes, and some of this equipment is stored there. The location of 97 Allbrook Hill is therefore poor. It is likely that this has deteriorated over the sixty years that the Tenant, Mrs Parker, has resided there.
- (b) Although the property has a pleasant rear garden which is quite long and leads to a paddock, it is very narrow and is not private in that the rear gardens are open plan and one path serves this garden and the next door property's garden. The small courtyard area adjacent to the houses is shared.
- (c) In the two living rooms the heating is supplied by gas fires installed by the Tenant. Other than one oil-filled radiator in the bath room (supplied by the Tenant) the house had no other source of heating.
- (d) The kitchen was small and did not have any modern fittings or appliances supplied by the Landlord. The only fixture supplied by the Landlord was an elderly stainless steel sink which was in a poor state. There were no cupboards. The appliances were the Tenant's. There was some damp on the kitchen wall. The cause of this had not been established but it was unlikely that a property of this age would have had a damp-proof course.
- (e) There were very few power points throughout the house. The main living rooms only had one socket each. The wiring was on the surface of the walls and needed modernising.
- (f) The layout of the house was poor in that the only bathroom was accessed through the rear bedroom. The bathroom fittings were in need of updating.

### **3. Evidence**

- 3.1 The Committee had received written representations prior to the hearing from both parties and they were both present and gave evidence at the hearing. The Landlord was accompanied at the hearing by Mr Nigel Collins and the Tenant by her son, Mr Parker.
- 3.2 The Landlord told the Committee that she had inherited the property on the death of her father in 2004. There had been no written tenancy agreement and Ms Glyn had had to investigate the history of the tenancy.

- 3.3 She was keen for the Tenant to agree to have central heating installed. She did not approve of open flame gas appliances in rented accommodation and she considered that central heating would not only be safer and more comfortable for the Tenant but that it would also cure the damp problems in the property. It was also more expensive for her to have to obtain gas safety certificates for the two gas fires currently in the property. The Tenant had, however, refused to have central heating installed. She said that she fully respected the Tenant's position as a Rent Act protected tenant and there was nothing personal in her seeking an increase in rent but she had to pursue an increase to obtain a market rent to enable her to carry out improvements to the property.
- 3.4 The Landlord's main reason for applying to the Committee was to challenge and obtain clarification of the Rent Officer's deduction of £51 per week from an open market rent. The Landlord was under the impression that this figure was a deduction for internal decoration, which was the Tenant's responsibility and for lack of central heating.
- 3.5 The Tenant said that although it was a large increase on the rent she was previously paying, she was content with the fair rent as registered by the Rent Officer.
- 3.6 She pointed out various defects to the property and the fact that the Landlord had done very little to the property in twenty-two years. She did not want central heating. She suffered from asthma and believed that the dry air produced by central heating would be detrimental to her condition. She could not be forced to have central heating against her will. She did not consider that central heating was the answer to the problems with damp in the house.

#### **4. The Law**

- 4.1 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* [1999] QB 92 the Court of Appeal emphasised:

- (a) that ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (ie 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

- 5.1 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 Eastleigh. Having done so it concluded that such a likely market rent would be £138 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 £138 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 £43 per week.

This figure of £43 per week is made up as follows:

	<u>£ per week</u>
Lack of central heating	7.00
Lack of modern kitchen and bathroom	7.00
Poor layout of accommodation	5.00
Electrics in need of modernisation	4.00
Lack of carpets, curtains and white goods	6.00
Tenancy differences	6.00
Location	5.00
General disrepair (mainly the damp problem)	3.00
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Total:	£43.00
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- 5.2 For the benefit of the parties, particularly the Landlord, the Committee comments on the above figures as follows:-

(a) **Central Heating.** The law requires the Committee to compare the Property in its existing state with a modern letting of a property in the open market under an Assured Tenancy. Most modern lettings would be of properties with central heating. The Landlord, in this case, has not had to provide this, even though she would like to do so. The Tenant cannot be forced to have central heating if she does not want it and the Landlord cannot recover a rent as if she had supplied central heating although in actual fact she has not.

(b) **Tenancy Differences.** Under Assured Tenancies the Landlord will be responsible for internal as well as external decoration. Under a Rent Act tenancy such as this, the Tenant is responsible for internal decoration. The fact that the Tenant has carried out only a limited amount of internal decoration in this case is irrelevant to the fact that the Landlord is relieved of this responsibility. The Committee considered that this was worth £6 per week to the Landlord in this instance.

5.3 The Committee did not consider that there was any substantial scarcity element which would have affected the open market value of the property in the Southern Hampshire area and accordingly no further deduction was made for scarcity.

5.4 This left a net rent for the subject property of £95 per week. Nothing needs to be added for services.

5.5 As this is the first registration of rent for the Property the Rent Acts (Maximum Fair Rent) Order 1999 does not apply.

## 6. Decision

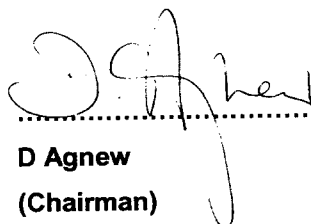
6.1 Accordingly, the sum of £95 per week will be registered as the fair rent with effect from the 2<sup>nd</sup> June 2005, being the date of the Committee's decision.

Dated this

*16<sup>th</sup>*  
*d*

June 2005

Signed:

  
.....  
D Agnew  
(Chairman)