

Rent Assessment Committee: Summary reasons for decision.

Rent Act 1977

Address of Premises

**11 Sheringham Court,
Barrington Close,
Liden,
Swindon,
SN3 6HJ**

The Committee members were

Mr Ian Perry BSc FRICS
Mr Michael Ayres FRICS

1. Background

On 15th April 2003 the landlord applied to the Rent Officer for registration of a fair rent of £57.90 per week for the above property.

The rent payable at the time of the application was £51.75 per week.

The rent was previously registered on 30th July 2001 at £56.24 per week this including £8.24 per week for services and being variable in accordance with the terms of the agreement.

On 2nd July 2003 the Rent Officer registered a fair rent of £62.72 per week including £9.72 per week for services as determined at the date of registration. This rent would be effective from 30th July 2003.

By a letter dated 8th July 2003 the tenant wrote to Swindon Borough Council suggesting that the rent was unfair and asking them to investigate. This was passed to the Rent Service who took the letter as a formal objection to the rent and the matter was referred to the Rent Assessment Committee.

2. Inspection

On 30th September 2003 the tenant spoke to Mr Peach the Clerk for the Rent Assessment Panel and confirmed that the flat contained no furniture or fittings supplied by the landlord.

He told Mr Peach that the landlord had recently replaced the windows with UPVC double-glazing, had upgraded the boiler, and had also recently installed cavity wall installation.

He went on to say that he had on more than one occasion painted the ceilings and the walls of the flat. He confirmed that he did not wish the Tribunal to inspect the inside of the properties but wished for an oral hearing to take place. This was subsequently fixed for Thursday 23rd October 2003.

On that day the Committee made an external inspection of the property and found it to be as contained within the Rent Officer's survey sheet which had been copied to all parties.

3. Evidence

The Committee had received the Rent Officer's survey sheet and an extract from the landlord's accounts for the services charged.

The landlord made no further representations to the Committee and did not attend the hearing.

The hearing was held on 23rd October 2003 and the tenant, Mr Boyle, appeared in person. He informed the Committee that the rent had increased from £62 per month in 1987, at which stage his take-home pay was £180 per week.

He informed the Committee that originally there had been three caretakers for the 3 blocks of flats in this area but that this had now been reduced to one caretaker who now carried out these duties.

He confirmed that double-glazing had been fitted some 2 years' ago and that cavity insulation had been installed. He further confirmed that the boiler provided hot water but heating was from night storage heaters. He is responsible for internal decoration and all carpets and curtains are his.

He maintained that the sound insulation between the subject property and other flats in the block was not as good as he would like and that the property was not worth £62 per week.

Mr Boyle also mentioned a number of points with particular regard to his personal circumstances and the length of time which he had occupied the property. It was pointed out to him that under section 70 that the Committee is obliged to ignore any personal circumstances.

Mr Boyle confirmed that he was a statutory tenant as defined by the Rent Act 1977 and he maintained that the rent should not be fixed as though it were an assured short hold tenancy as the majority of other flats are.

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 their 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 Swindon. Having done so it concluded that such a likely market rent would be £395 per calendar month or £91 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 £91 per week.

To allow for the tenant's obligations (listed above) it was necessary to make a deduction of £10 per month.

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 £81 per week/to which the sum of £9.72 in respect of services should be added.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £90.72 per week inclusive of £9.72 per week in respect of services.

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 £74.72 per week/inclusive of services (Details are provided on the back of the decision form).

Accordingly the sum of £74.72 per week/inclusive of services of £9.72 per week will be registered/confirmed as the fair rent with effect from 23rd October 2003 being the date of the Committee's decision.

The registered rent is to be entered/confirmed as variable in accordance with the terms of the tenancy (Rent Act 1977, s.71(4)).

Chairman

Signed

I R Perry FRICS

Dated

23rd October 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.