

Rent Assessment Committee: Summary reasons for decision

Rent Act 1977

Address of Premises

*43 High Street
Sixpenny Handley
Salisbury
Wilts
SP5 5ND*

The Committee members were

*J. S. McAllister, FRICS
P. Turner Powell, FRICS*

1. Background

On the 2nd July 2005 the landlords, Mr. and Mrs. M. Day applied to the Rent Officer for registration of a fair rent of £650 per month for the above property.

The rent payable by Mrs. K. Penny, the tenant, at the time of the application was £329 per month which was previously registered on the 17th January 2003 with effect from that date following a determination by the Rent Officer.

On the 27th July 2005 the Rent Officer registered a fair rent of £371 per month with effect from that date.

By an undated letter received on the 19th August 2005 the landlords 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 the 20th October 2005 and found it appeared to be in good condition being a detached bungalow about 50 - 60 years old, traditionally built of rendered elevations under a tiled roof. Briefly the accommodation is lounge, 2 bedrooms, kitchen, bathroom, hall and an attic storage room (loft ladder access). Outside there is a good sized area of garden with gravel drive and parking. Mains water, electricity and drainage are connected, hot water by immersion heater and space heating by an open fire in the lounge.

The landlord has, since the 17th January 2003, installed Upvc double glazed windows, and also carried out various repairs to the bungalow. Mr. Day provided copies of invoices to the Committee indicating that £4,846.88, £1,410 both including VAT, and £500 had been spent by the landlords on these works.

The following tenant's improvements had been made to the property:-

Solid fuel stove (in lounge fireplace)

Night storage heaters

Modern kitchen units

New shower (grant aided)

Double garage and garden sheds.

Mrs. Penny stated she had also carried out some repairs over the years, e.g. new toilet and immersion heater.

3. Evidence

The Committee received written representations from the landlords and these were copied to the tenant. No written representations were received from Mrs. Penny, the tenant.

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, have regard to all the circumstances including the age, location and state of repair of the property. It also disregards 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 comparable. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

(c) The Committee also has to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 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 but in addition to calculate the maximum fair rent which can be registered according to the rules set out in the Order. 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

In the first instance the Committee had to determine 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 (usually assured shorthold tenancies). It did this by having regard to their own general knowledge of market rent levels in the area of south Wiltshire, west Hampshire and east Dorset. Having done so it concluded that such a likely market rent would be £600 per month. In arriving at this sum the Committee disregarded the relevant tenant's improvements referred to above.

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 £600 per month 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 total deduction of £157.50 per month. This is made up as follows:-

- a) lack of central heating - £50 per month
- b) lack of carpets and curtains - £32.50 per month
- c) basic kitchen and bathroom - £40 per month
- d) tenant's decorating responsibility - £35 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 £442.50 per month exclusive of Council Tax and rates.

6. Decision

The fair rent initially determined by the Committee, for the purposes of Section 70, was accordingly £442.50 per month exclusive of Council Tax and rates.

The Committee then considered the effect on rental value of the landlords' improvements and repairs to the property since the last registration of rent on the 17th January 2003. Under paragraph 2.7 of the Order referred to in paragraph 4(c) above the Order "..... does not apply in respect of a dwellinghouse if because of a change in the condition of the dwellinghouse or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed". On balance they decided that the change of condition of the property as a result of those improvements and repairs did not increase the rental value by more than 15% of £329 per month, i.e. £49.50 per month. Accordingly they decided that the fair rent is limited by virtue of the Rent Acts (Maximum Fair Rent) Order 1999. Accordingly the maximum fair rent that can be registered in this case is the lower sum of **£373** per month exclusive of Council Tax and rates. (Details are provided on the back of the decision form).

Therefore, the sum of **£373** per month exclusive of Council Tax and rates will be registered as the fair rent with effect from the 2nd November 2005, being the date of the Committee's decision.


Chairman

Dated 2nd November 2005

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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.