

**Rent Assessment Committee: Summary reasons for decision.
Rent Act 1977****Address of Premises**

17 Islington
Trowbridge
Wiltshire
BA14 8QE

The Committee members were

Mr J S McAllister FRICS
Ms C L Andrews

1. Background

On 20th February 2003 the landlord applied to the rent officer for registration of a fair rent of £75.00 per week for the above property.

The rent payable at the time of the application was £49.50 per week

The rent was previously registered on 29th April 1997 with effect from 3rd May 1997 at £45.00 per week following a determination by the rent officer.

On 16th April 2003 the rent officer registered a fair rent of £55.00 per week with effect from that date.

By a letter dated 5th May 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 10th June 2003 and found it to be in rather poor condition as also described more particularly in the Rent Officer's survey sheet which had been copied to the parties. The property was a mid terrace house probably 150 years old. The end terrace houses on either side were vacant and boarded up.

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

Installation of main gas supply and gas heaters. Kitchen cupboards (except sink unit).

Shower and tiling in Bathroom.

3. Evidence

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

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, 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 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 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 Trowbridge. Having done so it concluded that such a likely market rent would be £103.85 per week (£450.00 per calendar month)

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 £103.85 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 total deduction of £36.53 per week. This related to the condition, position and character of the property, lack of central heating, lack of white goods, fitted carpets and curtains, the tenants decorating liability and tenant's improvements (listed above).

This leaves a net market rent for the subject property of £67.32 per week exclusive of council tax.

The Committee did not consider that there was any substantial scarcity element and accordingly no deduction was made for scarcity

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £67.32 per week

- The Committee then carefully considered the effect, if any, of the Maximum Fair Rent Order, having regard to the somewhat limited evidence before them as to the landlord's expenditure on the property (£2500 on Double Glazing) since the last registration of rent in 1997.
- In particular they had to decide whether or not as a result of this expenditure, the order applied. The relevant paragraph in the Order states:
 - "... (7) This article does not apply in respect of a dwelling house if because of a change in the condition of the dwelling house of the common parts as a result of repair or improvements (including the replacements of any fixtures or fittings) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for a registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed..."
- After careful consideration the Committee agreed with the Rent Officer's opinion and decided that the fair rent to be registered is limited by the Rent Acts (Maximum Fair Rent) Order 1999 because the cost of the landlord's repairs and improvements since the previous registration in 1997 did not increase the rental value by at least 15% of the previous registered rent (15% of the previous registered rent being £6.75 per week). Accordingly, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be registered for the property case is the lower sum of £56.00 per week exclusive of Council Tax. (A detailed calculation of this sum has already been provided to the parties).

Accordingly the sum of £56.00 per week, exclusive of Council Tax. Will be registered as the fair rent with effect from 10th June 2003 being the date of the Committee's decision.

Chairman

Dated

7/7/03

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.