

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

Address of Premises

Flat 44 Oakwood
Amberley Close
Haywards Heath
West Sussex RH16 4BZ

The Committee members were

Mr J B Tarling MI Mgt (Chairman)
Mr D J Myers FRICS
Ms J K Morris

1. Background

On 25 March 2003 the landlord applied to the rent officer for registration of a fair rent of £72.52 per week for the above property.

The rent payable at the time of the application was £70.21 per week.

The rent was previously registered on 22 March 2000 with effect from the same date at £3857 per annum following a determination by the rent officer.

On 4 June 2003 the rent officer registered a fair rent of £3300 per annum including £1213.68 in respect of services with effect from that date.

By a letter dated 24 June 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 20 August 2003 and found it to be in good condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The registered rent includes a sum for the services as listed on the rent register.

3. Evidence

The Committee received written representations from the landlord and these were copied to the other party. No written representations were received from 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, 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 West Sussex. Having done so it concluded that such a likely market rent would be £500 per month.

The Committee decided that the relevant differences between the subject property and the comparable properties given in evidence were so great as to make it inappropriate to rely on the market rent less scarcity approach in this case. It therefore relied on its knowledge and experience to assess a fair rent of £49.18 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 £49.18 per week to which the sum of £23.34 in respect of heating and services should be added.

6. Decision

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £72.52 per week inclusive of £23.34 per week in respect of heating and 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 sum of £79.11 per week inclusive of heating and services.

The section 70 fair rent determined by the Committee is below the maximum fair rent permitted by the Rent Acts (Maximum Fair Rent) Order 1999 and accordingly that rent limit has no effect. Details are provided on the back of the decision form.

Accordingly the sum of £72.52 per week inclusive of heating and services of £23.34 *per week* will be registered as the fair rent with effect from 20 August 2003 being the date of the Committee's decision.

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

(signed)
Chairman _____
J B TARLING

Dated 20 August 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.