

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
SOUTHERN RENT ASSESSMENT PANEL**

Certificate pursuant to regulation 10(2) of the Rent Assessment Committee (England & Wales) Regulations 1971 (SI 1971/1065)

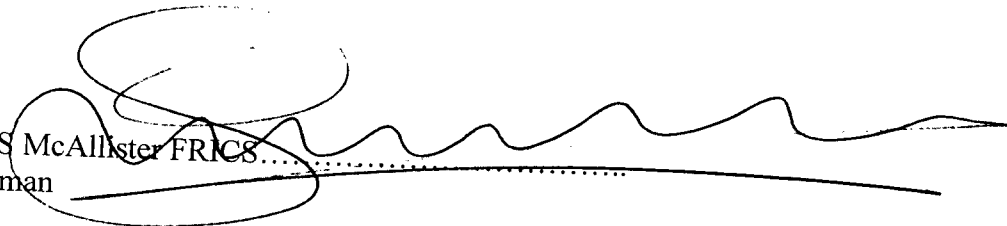
**Re: Rectory Cottage, Berkley Street, Berkley, Frome. BA11 5JH**  
Case No: CHI/40UB/F77/2004/13

I certify pursuant to the above-mentioned regulation that there is a clerical error in the Notice of the Rent Assessment Committee's decision in this matter dated 15 March 2004.

Paragraph 1 thereof, is incorrectly stated and should read as follows: -

Paragraph 1                      £425.00 per calendar month

Mr J S McAllister FRICS  
Chairman



29 March 2004

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

**Address of Premises**

Rectory Cottage  
Berkley Street  
Berkley  
Frome  
BA11 5JH

**The Committee members were**

Mr. J. S. McAllister, FRICS (Chairman)  
Mr. C. G. Thompson

**1. Background**

On 15 November 2003 the landlord applied to the Rent Officer for registration of a fair rent of £450 per calendar month for the above property.

The rent payable at the time of the application was £325 per calendar month.

The rent was previously registered on 5 December 2001 with effect from the same date following a determination by the Rent Officer.

On 31 December 2003 the Rent Officer registered a fair rent of £358.50 per calendar month with effect from that date.

By a letter dated 7 January 2004 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 15 March 2004 and found it appeared to be in fair condition for its age and character.

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

Two woodburning stoves (Living and Dining Rooms), rear Porch and replacement of open front Porch.

**3. Evidence**

The Committee received written representations from both the landlord and the tenant and these were copied to the parties. This included evidence from the landlord and his Building Surveyors as to the repairs carried out to the property and the cost thereof, since the last registration in December 2001.

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 shorthold tenancy (market) including assured shorthold rents are usually appropriate comparables. (These rents usually 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**

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 Northeast Somerset and West Wiltshire. Having done so it concluded that such a likely market rent would be £600 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 £600 per calendar 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 £175 per calendar month.

This total comprised the following deductions:-

- (a) Lack of central heating - £45 p.c.m.
- (b) Lack of carpets, curtains and cooker - £32.50 p.c.m.
- (c) Tenant's internal decorating liability - £32.50 p.c.m.  
(Normally in Assured Shorthold tenancies landlords are responsible for internal decoration).
- (d) Basic kitchen and bathroom - £45 p.c.m.
- (e) Dampness and septic tank - £20 p.c.m.

Total - £175 p.c.m.

As far as the tenant's improvements (listed above) were concerned the Committee did not consider they warranted any deduction in rental value.

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

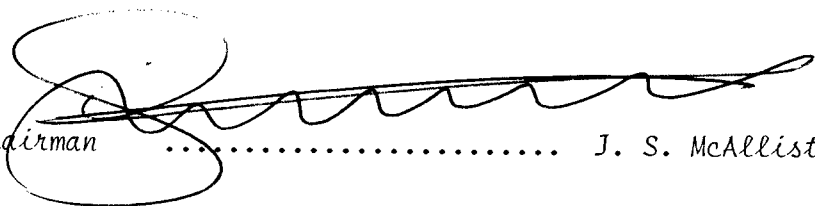
This leaves a net market rent for the subject property of £425 per calendar month exclusive of Council Tax.

## **6. Decision**

The fair rent initially determined by the Committee, for the purposes of Section 70 was accordingly £425 per calendar month exclusive of Council Tax.

The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because by virtue of landlord's repairs and improvements since the previous registration the rent determined by the Committee exceeds by at least 15% the previous registered rent.

**Accordingly the sum of £425 per calendar month exclusive of Council Tax will be registered as the fair rent with effect from 15 March 2004 being the date of the Committee's decision.**

  
Chairman ..... J. S. McAllister F.R.I.C.S.

Dated 15th March 2004  
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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 this document.*