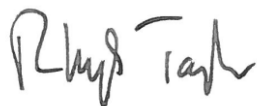


Rent Assessment Panel for Wales

Notice of the Rent Assessment Committee Decision		File Reference Number: RAC/0027/12/13 Holtsfield
Address of Premises 11 Holtsfield Murton Swansea SA3 3AQ	The Committee members were Mr R Taylor (Lawyer Chair) Mr R Baynham FRICS	
(1) The Committee has decided that the rent for the above premises is: The new rent will be entered by the rent officer in the rent register.	£41 per week (This amount excludes council tax and water rates but includes any amounts entered in boxes 3-5 below.)	
(2) The effective date is: The new rent will apply from this date.	14 th March 2014	
(3) The rent to be registered as variable.		
(4) The amount for services is:	NA	
(5) The amount for fuel charges (excluding heating and lighting of common parts) not counting for rent allowance is:	NA	
(6) The rent is not exempt from the maximum fair rent because of repairs or improvements carried out by the landlord.		
(7) Details (other than rent) where different from Rent Register entry: NA		
Date of decision: <u>14.3.2014</u>	 Chairman	
If the fair rent the Committee determined was higher than the maximum fair rent, the limit on fair rent increases may apply. If this is the case, the uncapped fair rent the committee determined is shown in box 8. This is shown for information purposes only and does not affect the rent payable.		
(8) The uncapped fair rent was: £45.90		

Y Tribiwnlys Eiddo Preswyl

Residential Property Tribunal (Wales)

Rent Assessment Committee (Wales)

First Floor, West Wing, Southgate House, Wood Street, Cardiff. CF10 1EW.
Telephone 029 20922777. Fax 029 20236146. E-mail: rpt@wales.gsi.gov.uk

REASONS FOR DECISION OF RENT ASSESMENT COMMITTEE (WALES) Rent Act 1977 s.70

Premises: 11 Holtsfield, Murton, Swansea, SA3 3AQ ("the property")

Ref: RAC/0027/12/13

Hearing: 14th March 2014

Tenant: Marianne Lorach

Landlord: Elitestone Limited

Members of Tribunal: Mr R S Taylor – Lawyer Chairman
Mr R Baynham FRICS

DECISION

1. The fair rent for the property shall be registered in the sum of £41 per week which shall apply from the 14th March 2014.

14 March 2014

A handwritten signature in black ink, appearing to read 'Rhys Taylor'.

Rhys Taylor - Chairman

REASONS

Background.

1. This is an appeal concerning the decision of a Rent Officer dated 5th November 2013, concerning the registration of a fair rent for the property.
2. By application dated 17th October 2013 the landlord applied for the rent to be registered at £60 per week.
3. The previous rent, registered on 5th January 1999, was for £25 per week effective from 18th December 1998.
4. The Rent Officer registered a new fair rent on the 5th November 2013 in the sum of £54 per week to be effective from 5th November 2013. In a letter dated 5th November 2013 the tenant was informed that she had 28 days in which to object. This would have been by the 3rd December 2013. However, Schedule 11, paragraph 5A of the Rent Act 1977 provides that the 28 days runs from the date of *service* of the notice of Rent Officer's determination. This would have been a day or so later than the 3rd December 2013.
5. In a letter dated 9th December 2013 the Rent Officer indicates that he received a late objection to the proposed rent increase on the 9th December 2013. However, contained within the Rent Officer's papers is an email from the tenant dated 4th December 2013, in which she objects to the rent increase. If the date of service was the 6th November (the earliest possible date upon which she could have been served), then this objection is within 28 days of the date of service.
6. Also dated 9th December 2013 we have a note from the Rent Officer in which he accepts that he failed to apply the Maximum Fair Rent calculation in his deliberations. He states, "Registrations pre-2005 are kept on an archive system which has been corrupted by Welsh Government wide migration to the 'Microsoft Office 2010' operating system and the previous rent registered in 1999 was inaccessible at the time of registration and I was under the impression it was a first time registration. Please find attached the correct calculation for information purposes only."
7. The attached calculation, headed "For information purposes only" applies the MFR resulting in a fair rent of £40.50 per week at the date it was calculated.

8. On the 19th December 2013, the President of the Rent Assessment Committee (Wales) made a procedural decision in which he accepted the late objection to the Rent Officer's decision on the basis that a manifest error had been made. It would appear that this decision was made without a hearing and without inviting any written representations from either party, in particular the landlord.
9. By a solicitor's letter dated 13th January 2014, the landlord essentially objects to the late application being considered by the Committee, stating that it was unaware of how this has come about. It states "Please note, we wish to be heard on the Hearing of this matter and we require a hearing ... We have copied this letter to the other side but on the basis there was a late objection perhaps you would explain why that has been accepted without any apparent explanation."
10. The Committee office replied on the 30th January 2014 that the matter was accepted out of time due to the Rent Officer's decision being manifestly incorrect. The landlord replied on the 6th February 2014 inviting, inter alia, clarification of what "manifestly incorrect" meant. This was further responded to on the 11th February 2014 by the Committee office indicating that it was due to the failure of the Rent Officer to apply the MFR.
11. Throughout this application the landlord has complained that the tenant is not in occupation of the property and that it is sub let. This is not a matter which the Committee has any jurisdiction to consider, the Rent Officer having accepted jurisdiction.

Inspection.

12. The committee inspected the property on the 14th March 2014.
13. The property is one of 27 relatively similar former holiday chalets which were originally constructed in the 1930s and which later become occupied on a full time basis. The site is situated at the end of an unmade, uneven, private track of approximately 500 meters from the main road. The nearest amenities are in the established village of Murton situated on the Gower peninsula. The site is a most unusual residential development and enjoys an almost Arcadian quality.
14. The property consists of a wooden chalet, with felt to the roof. The accommodation is basic and comprises a living room with two steps leading to a dining/kitchen area. There are two rooms off the living area which can serve as small bedrooms. In

addition there is an inner lobby which leads to a small bathroom with bath and over shower and a very small wash handbasin. There is no internal toilet, which is housed in a separate shed to the side of the property. The toilet is flushed by using water from a rain butt and, although not confirmed, appeared to drain to a septic tank.

15. We were shown an illustrative plan of the demised premises and it appeared to us upon inspection that the area actually occupied is somewhat wider than the plan. In particular, abutting the side of the toilet is a further, and substantial, chalet style wooden construction which the occupant referred to as 'the annex'. This does not enjoy any services but provided accommodation equal in size to the living area of the main chalet and is currently used for storage. To the other side of the chalet, the demise appears to have encroached onto neighbouring land, with a small shed and bonfire area.

16. The kitchen and bathroom were very basic. Central heating is provided by a woodburner and hot water via an immersion heater. The only main services are electric and water and the cooker is run via calor gas. A French door in one of the bedrooms was buttressed by polystyrene foam to try and improve insulation and the wooden floor adjacent to the French door is rotten, making it difficult to open and close it.

Written submissions.

17. The tenant wrote to the Committee offices dated the 10th March 2014, indicating that neither she nor her solicitor would be able to attend the hearing. The tenant did not ask for an adjournment.

18. In this letter the tenant objects to the rent increase (which, of course, is not the currently registered rent but an informal calculation by the Rent Officer following his letter of the 9th December 2013) to £40.50. It is stated that repairs have not been carried out by the landlord since 18th December 1998 (the date of the hearing of objections to the last registered rent in respect of this and other properties).

19. The tenant refers to works she has carried out without permission, including the installation of the outside toilet and central heating. Further, she complains about the disrepair, in particular to the roof and the basic system for water services. The tenant summarises her position stating that "The proposed increase is wholly unjustifiable

on the basis of the following features of the property: age, character, locality and state of repair”.

Hearing

20. Ms Lowri James attended the hearing on behalf of the landlord as a lay representative. The current occupants of the property (who described themselves as cat sitting for the tenant) also attended.

21. Ms James made a clear concession at the outset of the hearing. She conceded that the Committee properly has jurisdiction to consider the objecting to the proposed rent increase. This is despite the previous written complaints as to the appeal having been allowed to commence out of time. We spent no time considering this matter further in light of the concession, but note in passing, that it appears to us from the chronology described above that it is at least arguable that the objection was received within 28 days of service of the notice of rent increase and further, there is power under ss. 5A and 6 to Schedule 11 of the Rent Act 1977 for the Committee to consider an objection out of time. We need not resolve these issues given the concession.

22. Further, Ms James agreed to treat the land as currently occupied by the residents of the property as being the demise. We were shown no definite plan of the demise but some encroachment outside of an original demise appeared a possibility. However, for the purposes of our exercise, Ms James was clear that we could treat ‘the annex’ and bonfire areas, to the sides of the property as part of the demise.

23. In addition to producing a plan of the site, Ms James was able to produce evidence of current market rents (under assured shorthold tenancies) received for other chalets on the development. These ranged from £4,200 per annum to £2,600 per annum, the difference resting largely upon whether the property was modernised or not and the timing of granting of the tenancies. This places the range of weekly rents of comparable unfurnished premises between £80.77 and £50.

Market rent.

24. Having carefully considered the limited comparables available to us, we have determined that the market rent here should be £80 per week. We do this upon the basis that there appears real value in 'the annex' which we have treated as part of the demise. However, we treat the annex as a tenant's improvement, and deduct £5 per week. This leaves us with a de facto market rent of £75 per week.

s.70 Rent Act adjustments (aside from annex)

25. From the headline figure we must make the adjustments pursuant to s.70 of the Rent Act 1977. We differ from the Rent Officer and take the view that the standard of repair, services and access are such that a greater discount is justified.

26. We have made a £5 per week deduction on account of the central heating (such as it is) which does not appear to have been installed by the landlord. We make a £1 deduction per week for the tenant's provision of the limited carpets and curtains. We have made a £5 per week deduction for the state of the property, which we consider to be in poor repair.

27. The lack of kitchen and bathroom facilities justifies an £8 per week deduction. We have also made a deduction of £2 per week for the lack of double glazing.

28. The total adjustments here are £21, leaving an adjusted market rent of £54.

Scarcity.

29. The Rent Officer has selected a scarcity discount of 15%. This is a difficult question as we remind ourselves that we are considering "similar dwelling-houses" and these are fairly unique, or at the very least 'alternative', units of living accommodation.

30. The Committee could see arguments for both greater and lesser scarcity based upon the unusual nature of the property and the lifestyle afforded by it. However, neither party sought to advance arguments before us in respect of scarcity and in the absence of any evidence or argument, the Committee is reluctant to embark upon its own speculation as to the demand for such units. Given that there may be arguments going both ways, not rehearsed before us, our judgment is to leave undisturbed this

aspect of the Rent Officer's decision, which accords, in any event, with the common discount applied to more traditional dwellings in South Wales by this Committee.

31. This is a further deduction of £8.10.

Fair Rent.

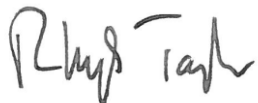
32. This leaves a fair rent of £45.90.

Maximum Fair Rents Order 1999

33. The Rent Acts (Maximum Fair Rent) Order does apply in this case. The MFR in this case is £41. We have appended our calculation which arrived at that figure to this decision, which forms part of the decision.

34. The fair rent shall therefore be registered at £41 per week as from the 14th March 2014.

Rhys Taylor – legal chairman.

A handwritten signature in black ink, appearing to read 'Rhys Taylor', written in a cursive style.

19th March 2014

Address of property

11 Holtsfield, Swanea

date

14.3.2014

market rent

£80.00 per week

adjustments

lack of central heating	5	
carpets curtains	1	
condition	5	
basic bathroom	4	
basic kitchen	4	
double glazing	2	
other (tenants improvements)	5	
total		26
<u>adjusted market rent</u>		£54.00

scarcity %

15 %

amount of reduction

£8.10

fair rent

£45.90

add services if any

0

maximum fair rent calculation

a) present RPI for last month published	252.6	
b) RPI for month of last registration	163.4	
c) = a) less b)	89.2	
d) divide c) by b)	0.545900	
e) add enhancement factor	0.075	
add 1	1	
f) total	1.620900	
g) last registered rent		£25.00
H) multiply f) and g)		£40.52
i) round up to nearest 50 pence		£41.00