



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

**Notification Of Decision By The Private Rented Housing Committee**

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<b>REFERENCE NO:</b>	<b>OBJECTION RECEIVED</b>	<b>OBJECTION</b>
RAC/G44/740	18 March 2010	Landlord

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**ADDRESS OF PREMISES**  
Flat 1F2, 313 Leith Walk, Edinburgh, EH6 8SA

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**TENANT**  
Mr Riddell

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<b>NAME AND ADDRESS OF LANDLORD</b>	<b>AGENT</b>
Miss AH Hunter's Trust	James Gibb Property Management 4 Atholl Place Edinburgh EH3 8HT

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**DESCRIPTION OF PREMISES**  
First floor traditional tenement flat circa 1900 comprising four rooms, dining kitchen and bathroom  
  
Gross floor area – 99 square metres

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**SERVICES PROVIDED**  
None

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**COMMITTEE MEMBERS**

<b>CHAIRMAN</b>	Mrs L Lea MBA LLB MSc
<b>SURVEYOR</b>	Mr I Mowat BSc FRICS
<b>HOUSING PANEL MEMBER</b>	Mr M Innes

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<b>FAIR RENT</b>	<b>DATE OF DECISION</b>	<b>EFFECTIVE DATE</b>
£ 6120.00 p.a.	1 June 2010	1 June 2010

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**J Lea**

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**Chairman of Private Rented Housing Committee**

2/6/10

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**Date**



**Statement of decision of the Private Rented Housing  
Committee under Section 24 (1) of the Housing  
(Scotland) Act 2006**

**prhp Ref: RAC/EH6/740**

**Re : Property at 1F2, 313 Leith Walk, Edinburgh, EH6 8SA ("the  
Property")**

**Introduction**

This is a reference to the Private Rented Housing Panel for the Determination of a fair rent under the Rent (Scotland) Act 1984 ("the Act") by the Landlord, Miss A H Hunter's Trust in relation to the property at 1F2, 313 Leith Walk, Edinburgh. The Tenants are Mr and Mrs Riddell. The previous rent paid by the Tenants was £3,700 per annum. The proposed rent was £6,600 per annum. The Rent Officer determined a rent of £5,000 per annum.

The Tenants were present at the inspection and the hearing. The Landlord was not present or represented at either the inspection or the hearing.

**The Documentation**

The Committee had the following documents before it:

- (1) The rent register document and a statement of reasons of 5 March 2010 relating to residential property at 3F2, 10 Lorne Street, Edinburgh and 2F3, 2 Lorne Street, Edinburgh.
- (2) The Committee also had Form RR1 from the Landlord and reply filled in by the Tenant.

**Description of the Property**

The property forms a first floor flat in a traditional four storey tenement block in a mixed residential area of the city. Schools, shops and bars are close by and the area is well served by public transport. The property is located above a shop on a busy street. There is a shared drying area to the rear of the property. The accommodation comprises a large living room, three good size bedrooms, dining/kitchen, bathroom and large hall area. There is no central heating in the property and the gas fires in the property are supplied by the Tenant. The windows in the property are traditional single glazed windows in a reasonable condition. Hot water is heated by an immersion which was installed by the Landlord but the Tenants renewed the immersion heater. The Landlord rewired the property some time ago. All the kitchen units and white goods have been supplied by the Tenants. The bathroom has old dated units in it.

The floor space within the property measures about 99 square metres. The Landlord does not provide furniture or services.

## **Hearing**

The hearing was held after the inspection at which the Tenants were present but the Landlord was not present or represented. The Tenants advised that they had been in the property for 42 years and that all the improvements in the property had been carried out by them. The Tenants explained that they had installed all the units in the kitchen, had provided the gas fires and had paid half of the replacement of the original toilet. The Tenants advised that the Landlord did do work on the roof and the mains water and renewed two of the windows. The Tenants also advised that the wiring had been partly redone by the Landlord. The Tenants indicated that they had no comment to make with regard to other properties and did not know what rent those in the flat above were paying. The Tenants also advised that they had put in an entry phone system along with the other Tenants but the Landlord had replaced this with a new one. They advised that there were difficulties with the property due to fumes coming from the Chinese restaurant nearby.

## **Decision and Reasons**

Section 48 of the Act provides that:

In terms of Section 48(1) of the 1984 Act, the duty of the Committee when determining what rent would be a fair rent under a regulated tenancy, is to "have regard to all the circumstances, (other than personal circumstances), and, in particular, to apply their knowledge and experience of current rents of other comparable property in the area, as well as having regard to the age, character and locality of the dwelling house in question and its state of repair and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture". Disrepair or defects attributable to the tenants should be disregarded, as should any improvements made by the tenants, otherwise than in pursuance of the terms of the tenancy (Section 48(3)). Improvements by the landlord are taken into account. In reaching its determination, the Committee complied with its duty as set out above.

The Committee considered carefully all the evidence presented, together with the observations made by the Committee members at the inspection. In particular, the Committee considered carefully which of the three alternative methods of ascertaining a fair rent was most appropriate in this case. The three accepted methods used in Scotland are (a) determining a fair rent by having regard to registered rents of comparable houses in the area, (b) taking market rents and then discounting for any scarcity element and making any appropriate disregards as required by Section 48(3), or (c) calculating the appropriate return based on the capital value of the property, taking into account the element of scarcity. None of these methods is regarded as being the primary method, and the method chosen by the Committee will depend in each case upon the evidence available.

Using its own knowledge and experience and having regard to the other properties available for let in the area, the Committee considered that a

market rent for a fully modernised, double glazed, centrally heated, fully furnished and well decorated three bedroom property of this type in the same locality as this property would be around £650 per month.

However the Committee must ignore any Tenants improvements in considering what is a fair rent for the property. The Committee accordingly considered that a deduction required to be made to take into account of the fact that, disregarding any Tenants improvements, the property would require to be modernised with a new kitchen and bathroom and have double glazing and central heating installed. The Committee also requires to take account of the fact that there is no furniture, floor coverings or white goods provided at this property. The Committee accordingly considered that the market rent of £650 per month required to be reduced by £140 per month leaving a market rent of £510 per month. The Committee accordingly considered that a fair open market rent for this property would £6,120 per annum.

The Committee then proceeded to consider whether any further deductions required to be made in terms of Section 48(2) (the factor commonly referred to as "scarcity") of the 1984 Act. The concept of scarcity is an essential feature of the fair rent scheme under the Rent (Scotland) Act 1984. The principle behind the inclusion of this section was that tenants in a situation of scarcity of supply (in other words, where there are more prospective tenants than available houses) should be protected from market forces. It is this factor that distinguishes a fair rent under the 1984 Act from an open market rent. Section 48(2) requires that a neutral market with no scarcity of houses be assumed. In that situation, prospective tenants can be assumed to be willing to pay only what the property is worth, with no additional premium being paid in order to secure a property that is difficult to come by. If that situation does not exist, and there is a shortage of houses, (thus artificially pushing up rents) then Section 48(2) requires that the tenants be protected from the financial implications of that.

The Committee considered whether any discount should be made for scarcity in this case but was satisfied that in Edinburgh as a whole, there could not be said to be scarcity of similar properties to let at the present time. The Committee was satisfied that no deduction required to be made in relation to scarcity for this type of property at this point in time.

The Committee also had before it details of a property at 3F2, 10 Lorne Street, Edinburgh. On 5 March 2010 a Private Rented Housing Committee had determined that a fair rent for this property was £5,100 per annum. However it was noted that this property was only a two bedroom property with a significantly smaller floor area and the other comparable at 2 Lorne Street is only a one bedroom property. Accordingly the Committee considered that the market rent evidence was the best evidence available.

Having taken all relevant factors into account, the Committee determined that a fair rent for the property was £6,120 per annum. In reaching this decision, the Committee had regard to all the documentary and oral evidence and the

all the circumstances that required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.

It should be noted that any increase in rent imposed in consequence of this decision must be applied in accordance with the provisions of Section 33 of the Rent (Scotland) Act 1984 and The Limits on Rent Increases (Scotland) Order 1989 No. 2469 (s168). These provisions specify the limits for the phasing in of significant increases.

The effective date is 1 June 2010.

**J Lea**

Signed..... (Chairperson)

Date..... 11/6/10.....