



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

| | | |
|----------------------|---------------------------|------------------|
| REFERENCE NO: | OBJECTION RECEIVED | OBJECTION |
| RAC/EH6/829 | 26 October 2011 | Landlord |

ADDRESS OF PREMISES

1F1, 35 Lorne Street, Edinburgh, EH6 8QW

TENANT

Mr R Cameron

NAME AND ADDRESS OF LANDLORD

Miss AH Hunter's Trust

AGENT

James Gibb Property Management
45 Atholl Place
Edinburgh
EH3 8HT

DESCRIPTION OF PREMISES

Traditional first floor tenement flat circa 1900 with gas central heating comprising three rooms, living kitchen and bathroom.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

Mrs A McCamley BA LLB NP
Mr D Marshall FRICS
Mrs I Kitson

| | | |
|------------------|-------------------------|-----------------------|
| FAIR RENT | DATE OF DECISION | EFFECTIVE DATE |
| £ 5160.00 p.a. | 21 December 2011 | 21 December 2011 |

A McCamley

Chairman of Private Rented Housing Committee

21/12/11

Date

STATEMENT OF REASONS

PRIVATE RENTED HOUSING COMMITTEE

INSPECTION: 21st DECEMBER 2011

PROPERTY: 35 Lorne Street, Edinburgh (1F1)

Introduction

1. The Committee comprised Mrs. Anne McCamley, Chairman, Mr. D. Marshall, Surveyor and Miss I. Kitson, Housing Member. Ms Carol Jones was in attendance as an observer.
2. The Landlord is Miss A. Hunter's Trust and the Landlord's agents are James Gibb, Property Management, 4 Atholl Place, Edinburgh. The Tenant is Mr Cameron. This reference to the Private Rented Housing Committee for a determination of a fair rent under the Rent (Scotland) Act 1984 and is in respect of the first floor flat known as (1F1) 35 Lorne Street, Edinburgh and arises from dissatisfaction on the part of both the Landlord and the Tenant.
3. The previous rent was £3,600.00 per annum. The Landlord proposed a rent of £5,400.00 per annum. The rent determined by the Rent Officer was £5,160.00 per annum.

Description of the Property

4. On the morning of the 21st of December 2011 the Committee carried out an inspection of the property. The property is a first floor flat forming part of a traditional Edinburgh tenement building. There is a pleasant communal drying/garden area to the rear. No services are provided by the Landlord. The stair has the benefit of a door entry system. The flat is located in Leith and is near to shops, schools and public transport links. There are commercial and industrial units nearby.

5. The flat comprises a sitting room, living room/kitchen, two large double bedrooms, a substantial box room off the sitting room which is currently used as a computer room and a bathroom.
6. The wiring in the property appears safe but is unlikely to meet current standards. The windows are of the original sash and case style and are not draught proof. The central heating system was provided through a Government grant applied for by the Tenant and is now the Landlords responsibility. No kitchen units or kitchen appliances have been provided by the Landlord. All furniture and floor coverings have been provided by the Tenant. The Tenant has maintained the property to the highest standard and it was beautifully presented to the Committee.
7. The Landlord was not represented at the inspection.
8. As neither party had requested a Hearing no Hearing took place.

The Decision

9. 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 to 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 Tenant should be disregarded as should any improvements made by the Tenant, otherwise than in pursuance of the terms of the tenancy. Improvements by the Landlord are taken into account. In reaching its determination, the Committee applied with its duty as set out above.

10. The Committee considered carefully all the evidence presented, together with the observations made by Committee Members at the internal and external 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 any scarcity element and making any appropriate disregard 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. In this case neither party produced any evidence as to capital values, market rents or registered rents of comparable properties.

Mindful of the observations by the Lord President in *Western Heritable Investment Company Limited v. Hunter* (2004) the Committee was aware of the need to proceed on the basis of the best available evidence using other available evidence as a check where possible. In this case, in the absence of any evidence from the parties, the Committee was obliged to rely on its own knowledge and experience of the rents passing and being asked in the local market. We did not have available to us any up to date evidence as to registered rents of comparable regulated tenancies. We proceeded to consider the case using the market rent less any discount for scarcity approach.

11. Using its knowledge and experience and having regard to other properties available for let in the area the Committee considered that a market rent for a fully modernised, double glazed, centrally heated unfurnished four apartment property of the type and in the locality of the present property would be a minimum of £550.00 per month. We arrived at this figure having researched the

letting market through the

newspapers, the internet and making enquiries with Letting Agents. We also had before us Statements of Reasons in respect of Committee Decisions relating to properties at (PF2) 22 Lorne Street and (2F1) 18 Lorne Street, Edinburgh. The subject property must be valued without double glazing, making allowances for re-wiring, the provision of floor coverings, kitchen upgrading and general re-decoration. Having identified the works and items which we considered to be required to bring the property up to market rent we estimated the life of the individual items and works and thereafter adopted a straight line depreciation approach. We considered a total of £120.00 per month should be deducted from the open market figure to take account of these factors leaving a net figure of £430.00 per month.

12. We then proceed 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 but the Committee was satisfied that in the area of 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 there is an equilibrium in the market at the moment.
13. Having taken all relevant factors into account, the Committee determined that a fair rent for the property is £5,160.00 per annum. In reaching this decision the Committee had regard to all documentary and other evidence and all the circumstances that required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.
14. 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(S.168). These provisions specify the limits for the phasing in of significant increases.
15. The effective date is the 21st of December 2011.

A McCamley

Chairman

PRMP.