



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/EH6/830	26 October 2011	Landlord

ADDRESS OF PREMISES

2F1, 1 Lorne Place, Edinburgh, EH6 8QT

TENANT

Mr IB Brake

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 second floor tenement flat circa 1900 comprising one room, 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
£ 3600.00 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: 1 (2F1) Lorne Place, Edinburgh

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 agents are James Gibb, Property Management, 4 Atholl Place, Edinburgh. The Tenant is Mr. Brake. 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 second floor flat known as 1 Lorne Place (2F1), Edinburgh and arises from dissatisfaction on the part of the Landlord.
3. The previous rent was £2,950.00 per annum. The Landlord proposed a rent of £4,500.00 per annum. The rent determined by the Rent Officer was £3,600.00 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 second 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 kitchen/living room, bedroom and bathroom.
6. The property has not been re-wired in the recent past and it is unlikely the wiring meets current standards.. The windows are the original sash and case style, they are not draught proof. There is no central heating. No kitchen units or appliances have been provided by the Landlord. There are no laundry facilities and all furniture and floor coverings have been provided by the Tenant.
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 double glazed and centrally heated room and kitchen of the type and in the locality of the present property would be £420.00 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 from other Rented Housing Panel Committees relating to properties at 18 Lorne Street and 22 Lorne Street, Edinburgh. The subject property must be valued as having no central heating, no proper kitchen and no double glazing. The property is also in need of re-wiring and floor coverings and re-decoration would be required. Having identified the works and items required to bring the property up to open market rental value we then estimated the life of the items

and works and adopted a straight line depreciation approach. Having carried out this exercise 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 £300.00 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 £3,600.00 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. The effective date is the 21st of December 2011.

A McCamley

Chairman

PRMP