

PRIVATE RENTED HOUSING PANEL

Rent (Scotland) Act 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
PRHP/RR/16/0131	6 April 2016	Landlord
ADDRESS OF PREMISES		
25 South Row, Coaltown of Wemyss, KY1 4LX		
TENANT		
Mr R McPhee		
NAME AND ADDRESS OF LANDLORD	AGENT	
Wemyss Cottages Ltd C/O Savills, 55 York Place, Perth, PH2 8EH		
DESCRIPTION OF PREMISES		
Bungalow in terrace of former miners cottages in the Coaltown of Wemyss built in early 20th century . The accommodation comprises a porch,hall area,lounge,two double bedrooms,kitchen and bathroom with good size back garden.The gross internal floor area is 67.4 square metres.		
Remarks:		
SERVICES PROVIDED		
COMMITTEE MEMBERS		
CHAIRPERSON	Judith Lea	
SURVEYOR MEMBER	Sara Hesp	
HOUSING MEMBER		
FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4350 p.a.	7 September 2016	7 September 2016

J Lea

Chairperson of Private Rented Housing Committee

7/9/16

Date



Statement of Reasons for Decision of the Private Rented Housing
Committee (Hereinafter referred to as "the Committee")

Under paragraph 10(1) of schedule 5 to the Rent (Scotland) Act

1984, Case Reference Number:PRHP/RR/16/0123,

0126,0127,0128,0129,0130,0131,0132,0133,0134,0135,0136 and 0137

Re : Properties at 3,11,17 Main Street,Coaltown of Wemyss

KY14NT ,21 and 23 Main Street ,Coaltown of Wemyss, KY14NU, 1,2

and 4 Barnes Row ,Coaltown of Wemyss ,KY14ND , 1,3,5 and 7

South Row Coaltown of Wemyss, KY14LU and 25 South Row

Coaltown of Wemyss ,KY14LX all in Fife.

The Parties:-

**Wemyss Properties Limited, The Tolbooth, Main Street, West Wemyss, Fife,
KY14SN represented by Savills, 55 York Place,Perth PH28EH ("the
Landlord")**

**Mr John Stewart, 3 Main Street
Mrs G Ritchie,11 Main Street
Mr H Bell,17 Main Street
Mr R Davidson,21 Main Street
Mrs S Black,23 Main,Street
Mr Grubb,1 Barnes Row
Mr Dingwall,2 Barnes Row
Mr Black,4 Barnes Row
Mrs Dalrymple,1 South Row
Mrs Rae,3 South Row
Mrs Bisset,5 South Row
Mr Bell,7 South Row
Mr McPhee,25 South Row
("the Tenants")**

The Committee comprised:-

Ms Judith Lea ,Chairman **Sara Hesp,Surveyor**

Background:-

1. The above listed are the tenants of the houses at 3,11,17,21 and 23 Main Street , 1,2 and 4 Barnes Row and 1,3,5,7 and 25 South Row Coaltown of Wemyss, Fife, by virtue of a statutory protected tenancy. The statutory protected tenancy followed the termination of the contractual protected tenancy dated 17 March 1975. The tenancy is covered by sections 43 to 54 of the Rent (Scotland) Act 1984. The rent under the tenancy is registrable under sections 46 to 50 of the 1984 Act. The previous registered rents were £3624 per annum inclusive of any service charge for the properties at 11,17,21 and 23 Main Street ,5 and 25 South Row, £3756 for the properties at 1,3 and 7 South Row and £3576 for the properties at 1,2 and 4 Barnes Row. No 3 Main Street has a registered rent of £4484 per annum fixed by a previous Private Rented Housing Committee after an appeal by the tenant. The Landlord applied to the Rent Officer for registration of a rent of £4600 per annum inclusive of any services or furniture to be registered as a fair rent for all of the properties. No services nor furniture are provided by the Landlords in exchange for the rent. In terms of the lease the Tenants have the duty to decorate the property internally. On 17 March 2016 the Rent Officer registered a rent of £4200 per annum for all the properties. This was intimated to the Tenants. The Landlord objected to this by letter of appeal to the Rent Officer dated 30 March 2016. The Rent Officer referred the objections to the Committee.

2. The Private Rented Housing Committee (comprising Mrs Judith Lea , Chairman and legal member and Sara Hesp, surveyor member) inspected all the properties where the Tenants had sent in written submissions asking for an inspection on the morning of 25th of August 2016. In The Committee inspected 1,3,5 and 7 South Row, 3,21 and 23 Main street and 1,2 and 4 Barnes Row. The Tenants of all these properties were in attendance at the inspections. The Landlord was not present or represented at any of the inspections. The properties all have a very similar accommodation being lounge, dining kitchen, bathroom and two double bedrooms. The properties are bungalows and form part of a terrace of bungalows. They are former miner's cottages. Main Street is also the A955 road. The properties are roughcast with red clay pantiled roofs. The properties have good sized gardens. The village of Coaltown of Wemyss is a conservation area situated between Kirkcaldy and Buckhaven. The properties in Main Street are approximately 77.8 m², the properties in Barnes Row are approximately 72 m² and the

properties in South Row are approximately 67.4 square metres. The properties in South Row although being smaller do not have to access the kitchen from the lounge and are on a quieter street. The Tenants at all the properties advised that very little work has been done by the Landlord on these properties over the last 30 to 40 years. The Tenants have put in new kitchens and bathrooms in most of the properties and installed central heating. They also advised that the Landlord had since taken over the maintenance of the central heating and in some cases had provided new boilers. The windows in the properties are not double glazed and are draughty and in need of maintenance. There was evidence of damp in some of the properties and in those properties where the Landlord had recently done some work to address this issue, the resulting patches had not been redecorated by the Landlord. The Committee particularly noted that the Tenants in all the properties had carried out significant work over the years at the properties and it was this work which resulted in the properties being in a much better state than they would have been if the Tenants had not carried out the work. The Tenants have provided all the floor coverings and have evidently done a lot of work in the gardens, providing fences, sheds etc. Some Tenants have put in secondary glazing, new internal doors and false lined walls. Most of the properties had been rewired by the landlord at some point over the last 30 years but there was no evidence of recent satisfactory rewiring. Some of the properties had had a partial re-roofing but most have the original tiled roofs. Some of the tenants have made alterations to the properties to suit their living arrangements but this was done with the agreement of the landlord.

Documentation

3. The Committee also had before it written representations from the Landlord's agent and from the various Tenants.

Hearing

4. The Private Rented Housing Committee held a hearing at Forth House, Kirkcaldy after the inspections. A lot of the Tenants from the various properties that had been inspected that morning attended the hearing. Mr Davidson of 21 Main Street, Mrs Black of 23 Main Street, Mr R Bell of 7 South Row, Mr Stewart of 3 Main street, Mr T Black of 4 Barnes Row, and Mr H Bell of 17 Main Street were in attendance. Councillor Rogers the local councillor for the Area also attended and spoke on behalf of the Tenants. The Landlord was not present or represented. Cllr Rogers advised that there had been great difficulty getting the estate to carry out repairs over numerous years. Despite no repairs being done the estate intended to increase the rent by £40-£80 which was very concerning. Mr Rogers pointed out that Fife Council had only increased the council house rents by 10.3% over three years,

Kingdom Housing Association had increased rents by 13.3% over three years and Fife Housing Association had increased rents by 10.6% over three years. The Landlord here wished to increase rents by 23.6% despite having carried out no repairs. The Tenants in these properties are in their 60s and 70s and the rise in rents, Mr Rogers submitted was totally unacceptable. It was pointed out that the banding for the houses had been reduced. The properties in Coaltown of Wemyss were only the way they were because of all the work done on the properties by the Tenants. Mrs Bell's house showed how the properties were when the Tenants moved in. The Tenants have been asking for new windows and doors for years and this has still not been done but despite this the rent had been increased. Even when some new roofing was provided the roof was not properly replaced. The tiles were old and on some of the properties daylight could be seen through the roof. There had been underinvestment in the properties by the Landlord.

Mr Rogers pointed out that the Landlord had accepted the rent officers figure in the past but now that Savills were involved they had challenged it. The Tenants had to go through this process every three years. The properties that had been taken over by Kingdom Housing Association had had work done on them. The properties the Landlord was responsible for had had no work done and the tenants had to live with draughts, condensation and ice. This affected their enjoyment of the property and their heating bills. One of the Tenants advised that the landlord had some short assured properties in West Wemyss where they have put the rent up. The Committee enquired as to what this rent had been put up to and the tenant advised that it was thought it had increased from £450 to £470 per month. The Committee enquired of Councillor Rogers whether or not he had an opinion with regard to whether rents had stayed the same in the local area during the last three years. He indicated that he thought they had. The Committee also enquired of Councillor Rogers and the Tenants whether or not they had any view on what the market rent for similar properties in Coaltown of Wemyss would be but they did not have an opinion. They pointed out what the rents were for the Kingdom Properties.

Reasons for Decision

5. The Committee considered carefully all the evidence presented, together with the observations of the Committee members at the inspection. The Committee requires to determine for itself what rent is or would be a fair rent under a regulated tenancy of the properties in question. If the Committee determines that the rent registered by the Rent Officer is a fair rent then it must confirm the rent but if it takes the view that the rent so registered is not a fair rent, then it must determine the fair rent for the property in question. The duty of the Committee to determine the fair rent is set out under section 48 as of the Rent (Scotland) Act 1984.

In determining the fair rent the Committee is obliged to have regard to all circumstances (other than personal circumstances) and in particular to apply their knowledge and experience of current rents of comparable property in the area, as well as having regard to the age, character and locality of the dwellinghouse in question and to its state of repair, and if any furniture is provided under the tenancy to the quality, quantity and condition of the furniture. In determining the fair rent the Committee are obliged to assume that the number of persons seeking to become tenants of similar properties in the locality on the terms (other than those relating to rent) of the tenancy is not substantially greater than the number of dwellinghouses in the locality which are available for letting on such terms. The Committee are obliged to disregard any improvement or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the tenancy by the tenant or any predecessor of his under the tenancy. The Committee considered which method should be applied for determining a fair rent. The three accepted methods are :

(a) having regard to registered rents of comparable dwellinghouses in the area;

(b) taking market rents and deducting an amount in respect of improvement and the like which requires to be disregarded and an amount if the market rents did not reflect the assumption as to demand not being substantially greater than supply (the assumption as to absence of scarcity) and

(c) calculating the appropriate return based on the capital value of the property, taking into account the assumed absence of scarcity. None of these methods is regarded as the primary method.

6. The only comparable registered rent available to the Committee was the rent registered by the Private Rented Housing Committee in respect of 3 Main Street in 2013. This was a rent of £4484. The previous Committee in coming to this determination, considered that at that time the market rent for a property like 3 Main Street before applying any disregards was £5700 per annum. The Committee from its own knowledge and experience considered that this figure was correct. The Committee asked the Tenants and Councillor Roger at the hearing whether or not they had any view on what the market rent would be but they were not able to provide the Committee with any view. The Committee noted that there was a similar property available for rent in Lorraine Drive, Cupar, Fife being a modernised 2 bedroomed bungalow terraced property for rent at £525 pm being £6300 per annum. The Committee do not consider that rents in the private sector in the area have increased significantly in the last three years. Councillor Rogers advised that Council rents and Kingdom Housing Association rents in the area had increased by about 10% over the last three years. The Committee from its own knowledge and experience considered that market rents have only increased by 5% resulting in the market rent for properties such as these now being £5985 per annum before applying any disregards. In reaching this view, the Committee had regard to the market rents for similar properties in the locality of Fife. The comparable in Lorraine Drive at £6300 is some distance away in a larger town and arguably a better area but it reflects the market rent of a bungalow with similar accommodation. Allowance has been made for the fact that Coaltown of Wemyss has less amenities.

7. Using its knowledge and experience the Committee agreed with the previous Committee and considered that there was no scarcity of such properties and that the assumption of an absence of scarcity was reflected in the market rents for comparable tenancies in the locality. The Committee however noted that the Tenants have carried out considerable work at the properties over the years and this requires to be reflected in the level of rent payable. The internal improvements and alterations made by the Tenants fall to be disregarded in the fixing of a fair rent. The Committee accordingly had to consider what the landlord would require to spend in respect of the Tenants' improvements and replacements over the lifetime of such replacements and improvements.

8. The Committee took the view that the cost of the carpets and floor coverings all of which have been provided by the Tenants would be £1600 with a lifetime of five years giving an annual cost of £320. Fitted bathroom would be £2500 pounds with a rough lifetime of 10 years giving an annual cost of £250. Fitted kitchen would be £4000 with a

lifetime of 10 years giving an annual cost of £400. Central heating £2500 with a lifetime of 15 years giving an annual cost of £166 , double glazing at a cost of £3000 with a lifetime of 15 years giving an annual cost of £200, rewiring at a cost of £3000 over a lifetime of 15 years at annual cost of £200 and gardening works at a cost of £1000 with a lifetime of 10 years giving an annual cost of £100. The Committee considered that a fair rent for the properties would be £4350, having regard to these disregards. The Committee noted that both the Rent Officer and the Landlord considered that all the properties should have the same rent. The Committee agreed that this was appropriate given the similarities between properties and the fact that although there were minor differences between the properties these would not make a significant difference to the fair rent. The Committee noted the Tenants' concerns with regard to the lack of maintenance carried out on the properties by the Landlord over an extended period and the comments made by the Tenants about the state of the windows ,doors and roofs. Whilst the Committee considered that the properties did meet at the tolerable standard it may well be that the properties breach the repairing standard and the Tenants may wish to consider an alternative route if this continues to be a problem.

9. The Committee, after considering all the available evidence determined that the rent registered by the Rent Officer was not a fair rent and that a fair rent for the Properties at 3,11,17 Main Street,Coaltown of Wemyss KY14NT ,21 and 23 Main Street ,Coaltown of Wemyss, KY14NU, 1,2 and 4 Barnes Row ,Coaltown of Wemyss ,KY14ND , 1,3,5 and 7 South Row Coaltown of Wemyss, KY14LU and 25 South Row Coaltown of Wemyss ,KY14LX all in Fife was £ 4350 per annum.

In reaching this decision the Committee had regard to all of the requirements of section 48 of the 1984 Act.

Signed
Chairman

J Lea

Date: 7 September 2016