

## RENT ASSESSMENT PANEL FOR SCOTLAND

### HOUSING (SCOTLAND) ACT 1988 SECTION 34 (1) REGISTER OF RENTS DETERMINED UNDER SHORT ASSURED TENANCIES

**REFERENCE NO.**  
RAC/DG9/S30

**APPLICATION RECEIVED**  
28 February 2007

**ADDRESS OF PREMISES**  
Burnfoot Cottage, Cairnryan, Stranraer, DG9 8RB

**TENANT**  
Mr D McDowall

<b>LANDLORD</b>	<b>AGENT</b>
Lochryan Estates	DD Wolseley Brinton, Chlenry, Castle Kennedy, Stranraer.

<b>RENTAL PERIOD</b>	<b>DATE TENANCY COMMENCED</b>
Two Monthly	12 December 1988

#### DESCRIPTION OF PREMISES

Detached stone built cottage approximately 200 years old with double glazing and oil fired central heating comprising on ground floor, living room, dining kitchen with scullery and bathroom. Upper level comprises two double bedrooms. The cottage has a private water supply and septic tank.

**SERVICES PROVIDED** - Sewage disposal

#### COMMITTEE MEMBERS

<b>CHAIRMAN</b>	Mrs J Taylor LLB Dip LP NP
<b>PROFESSIONAL MEMBER</b>	Mr G Campbell FRICS
<b>LAY MEMBER</b>	Mr J Riach

**PRESENT RENT** - £ 100.00 per week

**RENT DETERMINED BY RAC** - £ 78.00 per week (£ 4100.00 per annum)

**DATE CONSIDERED**  
4 April 2007

**DATE DETERMINATION TAKES EFFECT**  
28 February 2007

J Taylor

Chairman of Rent Assessment Committee

30<sup>th</sup> April 2007

Date

## **STATEMENT OF REASONS**

in connection with

**INSPECTION HELD ON 4<sup>th</sup> April 2007**

of the property

**Burnfoot Cottage, Cairnryan, Stranraer.**

### **1. THE PARTIES**

The landlords are John M A Wallace, Mrs Louise A A Wallace and John B A Wallace as partners of the firm of Lochryan Farms, Lochryan, Stranraer. The tenant is David McDowall.

### **2. BACK GROUND**

The parties entered into a Short Assured Tenancy agreement dated 3<sup>rd</sup> and 7<sup>th</sup> December 1998. The lease commenced on 12<sup>th</sup> December 1998 and was for the initial period of six months and continued thereafter on a two monthly basis until terminated. Clause Two of the lease confirms that the tenant received Form AT5 before the commencement of the lease. The rent was £65 per week and remained unchanged until 12<sup>th</sup> December 2006 when it was increased to £100 per week.

### **3. THE INSPECTION**

The committee inspected the property, which is a detached stone built cottage. The property is over two hundred years old and is located off the Main Girvan to Stranraer Road, close to Loch Ryan and adjacent to the local cemetery. There are sea views from the upper apartments. The accommodation comprises living room, dining kitchen with scullery off and bathroom on the ground floor. There are two attic bedrooms on the upper floor. The property is heated with an oil fired central heating system which runs from the Rayburn located in the kitchen. The Rayburn also heats the hot water. There is also an electric immersion heater. There are double glazed

windows throughout. The committee observed that some of the window seals had perished and the tenant explained that the windows are not water tight. There is a dated septic tank located in the garden. The water supply to the property is from a private well which serves a number of houses in the locality. The committee were advised that the rent includes free water and sewerage disposal.

There is a garden, lawn, flower beds and shingle paths around the property.

#### 4. THE HEARING

The Tenant, his wife and son were present at the hearing and they agreed to the hearing taking place at the property, following the inspection.

The tenant was represented by Claire Kerslake of Stranraer Citizens Advice Bureau. The landlords did not attend the hearing.

The committee had the following documents before them:-

- A copy of the form, completed by the landlord's agents, confirming that they did not wish to attend the hearing and advising:-
  - ' 1. The tenant, who has not had a rent review in the nine years since he took occupancy of the house on 12<sup>th</sup> December 1998, has offered a rent of £100 per week- see attached copy of the signed offer dated 19<sup>th</sup> October 2006 which came into effect on 12<sup>th</sup> December 2007.
  2. Water, sewerage disposal as well as regular servicing of the oil fired Rayburn, which does the central heating as well as the domestic hot water, is all paid for by the landlord and therefore included in the rent. While the tenant has acknowledged the first two he has omitted to include the third on the Form AT4.
  3. The tenant reports under Part 8 that there is rising damp.
    - On 15<sup>th</sup> November 2006 there was torrential rainfall all day. Water entered the house through the front door.
    - On 16<sup>th</sup> November 2006 the Roads Dept came out to the house and agreed to install a drain to take storm water off the A75 that was clearly pouring into the garden and thence into the house.
    - On 22<sup>nd</sup> November 2006 a builder installed an additional drain from the immediate area around the front door to a drain some 6 or 7 meters distant.
    - The landlord has offered to pay for a replacement carpet in the living room, but because the tenant says he wishes to paint the skirting boards, this has not yet been paid for.

Other than this single occurrence, the house is totally wind and water tight. The tenant has never complained of any defect at any time previously.'

- A copy of the form, completed by the tenant, confirming that he wished to attend the hearing and advising that 'for a comparable 2 bedroomed estate cottage on an estate in the area £100 per week is high. A 2 bed cottage on Stair estates ranges from £2500 per annum to £3500 per annum.'
- A copy of form AT4, completed by the tenant.
- A copy of the lease agreement.
- Letter from Claire Kerslake, dated 16<sup>th</sup> January 2007, advising that the tenant had been unable to locate a copy of the AT5 however he is sure that he did sign one prior to the tenancy agreement, also the tenancy agreement acknowledges that the client received form At5 before the commencement of the lease.
- Memorandum of Agreement signed for the Landlords dated 20<sup>th</sup> October 2006 confirming that the revised rent from 12<sup>th</sup> December 2006 would be £5200 per annum or £433 per month.

On behalf of the tenant, Claire Kerslake advised the committee as follows:-

- She advised the committee that she had worked with the Citizens Advice Bureau in the area for over twelve years and had considerable experience of the rental market.
- She advised that there are a significant number of assured and short assured let properties in the area. She had contacted Stair Estates who confirmed that their rents were in the range £2500 to £3500 per annum for assured and short assured leases, which equates to £48 to £67 per week.
- She advised of a five bedroom property let by Ardwell Estates for £70 per week.
- She advised of a two bedroom property in Stranraer which was let for £75 per week and a large 4 bedroom property in Larg Road which was let for £120 per week.
- She was aware of the rents charged by the local housing association. They charged between £60 and £67 per week for a two/three bedroom property.
- She advised the committee that she considered the rent sought by the landlords of £100 per week to be excessive, in view of this evidence of comparable rents and she considered that a reasonable rent for the property, after considering the comparable rents, was £60/£65 per week.
- She advised the committee that an approximate capital value for the property was £60,000.

## 5. THE DECISION

The committee considered the oral submissions of the parties and the documents which had been presented to them.

In terms of Section 34(1) Housing (Scotland) Act 1988 the committee shall not make such a determination as is referred to in that subsection unless they consider—

- '(a) that there is a sufficient number of similar houses in the locality let on assured tenancies (whether short assured tenancies or not); and
- (b) that the rent payable under the short assured tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.'

The committee acknowledged that the evidence of Claire Kerslake was of a very general nature. However the committee recognized that she had good experience of the local rental market and they accepted her evidence that there are sufficient similar houses let on assured and short assured tenancies in the area.

The committee also accepted that her evidence demonstrated that the rent of a comparable property in the area was in the region of £60/ £80 per week. They considered that the rent sought by the landlord of £100 per week was significantly higher than the rent the landlord might reasonably be expected to obtain having regard to the general level of rents of comparable properties.

The committee acknowledged that Claire Kerslake's evidence did not provide details of the size or standard of the accommodation of the comparable properties in relation to Burnside Cottage and therefore they gained little assistance from this evidence in fixing the rent.

The committee accepted Claire Kerslake's evidence that a reasonable capital value of the property was £ 60,000. They applied a return on capital of 6% per annum (£3600) and made a reasonable allowance for repairs, insurance premiums and factors charges of £500 per annum resulting in a reasonable market rent of £4100. (£78 per week).

Due to the stated limitations of the comparable open market rent evidence available the committee preferred the capital valuation method of fixing the open market rent for the property, but acknowledged that the figure of £78 per week is also in accordance with the the local rental evidence provided by Claire Kerslake.

The committee decided that the open market rent for the property was £4100.

In reaching this decision the committee have had regard to all the considerations required to be taken into account in terms of Section 34 of the Housing (Scotland) Act 1988.

The committee decided that the increase in rent should take effect from 28<sup>th</sup> February 2007. This is the date that the Tenants application was registered with the Rent assessment Panel.

J Taylor

Chairperson, 30<sup>th</sup> April 2007