



PRIVATE RENTED HOUSING PANEL

HOUSING (SCOTLAND) ACT 1988 SECTION 25(1)

Register Of Rents Determined Under Statutory Assured Tenancies

REFERENCE NO.

RAC/AB35/A50

APPLICATION RECEIVED

22 January 2008

ADDRESS OF PREMISES

Balnacroft Cottage, The Street, Crathie, By Ballater, AB35 5TS

TENANT

Mr I Tawse

NAME AND ADDRESS OF LANDLORD

Mr JHS Gordon

AGENT

Aberdeen Considine & Co.
Justice House
4 Justice Mill Lane
Aberdeen
AB11 6EQ

RENTAL PERIOD

SIX MONTHLY

DATE TENANCY COMMENCED

9 April 1990

DESCRIPTION OF PREMISES

End terrace two storey cottage circa 1900 comprising on ground floor level, living room, study, traditional kitchen and bathroom. Upper level comprises two bedrooms.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
PROFFFESSIONAL MEMBER
LAYMEMBER

Mrs J Taylor LLB Dip LP NP
Mr R Buchan BSc FRICS
Mr A McKAY

PRESENT RENT

£3120 p.a.

RENT DETERMINED

£3450 p.a.

DATE CONSIDERED

9 April 2008

DATE DETERMINATION TAKES EFFECT

5 July 2008

J Taylor

Chairman of Private Rented Housing Committee

7th May 2008

Date

STATEMENT OF REASONS

in connection with

INSPECTION HELD ON 9th April 2008

of the property

Balnacroft Cottage, The Street, Craithie, By Ballater, AB35 5TS

1. THE PARTIES

The landlord is John Gordon, Abergeldie Castle, Craithie, By Ballater, Aberdeenshire and he is represented by Aberdeen Considine, Solicitors, Aberdeen. The tenant is Ian Charles Tawse.

2. BACK GROUND

The tenant's lease commenced on 9th April 1990. The landlord showed the committee a copy of the lease at the inspection. The original lease was an assured tenancy in terms of the Housing (Scotland) Act 1988. The tenant became a statutory assured tenant of the property following service of notice to quit by the landlord, requiring the tenant to vacate the property on 16th April 2007. The tenant advised that he had received the notice to quit over a year ago. The tenant is currently paying rent of £3120 per annum (£60 per week). The landlord's agents had applied for an increase in the rent by serving the tenant with a notice of increase of rent on form AT2, dated 4th January 2008, intimating a proposed increase in rent to £3640 per annum (£70 per week) with effect from 5th July 2008.

3. JURISDICTION

In terms of section 24(2) of the Housing (Scotland) Act 1988, the landlord requires to serve the tenant with a correctly completed form AT2, giving at least six months notice of an increase in rent. The landlords had correctly

served the tenant with a notice of rent increase on form AT2. As stated, the form was dated 4th January 2008 and it advised that the new rent of £70 per week would take effect from 5th July 2008. Accordingly the committee were satisfied that they had jurisdiction to hear the application.

4. THE INSPECTION

The committee inspected the property, which is an end terraced cottage which dates from circa 1900. The cottage had been constructed with sand stone and has a traditional slate roof. There is a small porch to the front which has a corrugated roof. The property is largely unimproved.

The accommodation on the ground floor comprises living room, with study off, traditional kitchen and bathroom. A wooden staircase leads to the upper floor where two bedrooms have been created in the roof space.

The study had been formed from the original coal cellar and is unheated and has limited insulation.

The windows on the ground floor of the property are single glazed sash and case style windows. The landlord advised that his joiner had recently released the windows, to enable them to open freely. The tenant explained that even though the windows had been released they were very draughty and due to the limited heating in the property ice formed on the inside of the windows in the winter. The windows to the upper floor are double glazed velux windows.

In the kitchen the landlord had supplied the kitchen units and the tenant had replaced the sink some time ago to enable a dishwasher to be installed. The appliances in the kitchen were provided by the tenant, with the exception of the Raeburn which had been installed by a previous tenant. The Raeburn was in need of repair and could not be used in its present condition.

The fittings in the bathroom were dated and comprised a sink, bath and wash hand basin.

The only heating in the property is a Morso stove, which the tenant had installed in the lounge to replace the original coal fire.

The front door of the property was ill fitting and draughty, although the landlord had recently fitted some wooden straps to reduce the draughts.

There was a substantial crack in the end gable wall of the property. The landlord advised that he intends to have the crack repaired and the gable end under pinned, when the weather improves.

There are two large outbuildings pertaining to the property and a large garden at the rear.

The property is served with a septic tank, which is located in the back garden, and there is a private water supply to the property.

The property is situated in a remote location and the nearest amenities are located at Ballater, approximately seven miles from the property.

5. THE HEARING

No Hearing was requested.

6. THE DECISION

The committee had the following documents before them:-

- A copy of AT2 form dated 4th January 2008.
- A copy of form completed by the tenant explaining that he did not wish to attend a hearing but making the following written representations:-

'The original rent was agreed at £40 per week rising by £2- £3 every three years. The landlord broke this and put the rent up by £10 after three years and we have been in dispute ever since. I had spent a lot of money carpeting and putting a stove in the house also numerous other repairs. Due to this fact my wife at the time did not want to move, we tried to live with it. After another 3 years he again put it up by another £10 which was not the deal. I then found out that out lifetime tenancy was not worth the paper it was written on and I had not a leg to stand on. I feel I have overpaid by over £10,000 rent and the landlord does no repairs. Since your letter to him he has sent round a couple of local workmen but as yet no repairs done. My neighbour who has been here 9 years is paying the same rent as me yet the landlord put in a wood burning stove and central heating....'

- Written Representations from the landlords, which stated *inter alia*:-

'Firstly with regard to part 5 (services) the tenant is, in fact, provided with private water and sewage services. No water and sewage rates are charged to the tenant for this service.

In terms of part 7, in terms of the lease the tenant is entitled to make alterations to the property in terms of the lease. However, we note that there is no dispute that the majority of the work noted is merely cosmetic, altering what was previously in good order.

In terms of part 8, the landlord has taken steps to deal with the issues raised by the tenant. With regards to the windows, all the windows were released by a joiner recently at the request of the tenant, who we note now alleges they are not draught proof. In this regard, the landlord has requested that a joiner re- examine the windows. A draught excluder is also to be fitted to the front door. The tenant is aware of this.

With regard to the raeburn, the tenant is aware that the landlord has instructed tradesmen to fix this.

Finally, the tenant has been informed that an electrician is fitting a new fuse box, and also that a builder will deal with pointing at the gable end where required, also as requested by the tenant.'

The committee considered these documents.

The committee had good evidence of markets rents of other properties in the area:-

- 3 bedroom rural property at Aboyne- £650 per month.
- 3 bedroom property at Dinnet - £420 per month.
- 2 bedroom, slightly larger property than Balnacroft, at Alford -£450 per month.
- 1 bedroom property at Ordy - £300 per month.

The committee acknowledged that these properties are in good condition both externally and internally and have double glazing, central heating, carpets and appliances supplied by the landlord.

Due to this evidence of market rents the committee considered that the market rent for a property the same size as Balnacroft Cottage, and in the same improved condition as the comparable properties, was £4800 per annum (£400 per month).

However a deduction from this rent was required to reflect the following differences between Balnacroft Cottage and the comparable properties:-

- No central heating.
- The ground floor windows are single glazed and are draughty.
- The bathroom and kitchen have not been upgraded.
- No appliances or floor coverings are supplied by the landlord.
- The property is largely unimproved.
- The crack in the gable end of the property.

They estimated that the cost to the landlord in upgrading the property to bring it to the same standard as the comparable properties would be £20,000. They considered that this justified a deduction of £1333 per annum.

In view of the foregoing, the committee decided that the open market rent for the property was £3450 per annum. No services are provided by the landlord.

In reaching this decision the committee have had regard to all the considerations required to be taken into account in terms of Section 25 of the Housing (Scotland) Act 1988.

The committee decided that the increase in rent should take effect from 5th July 2008, the date indicated in the landlord's AT2 form which had been served on the tenant.

..... **J Taylor**

Chairperson, 28th April 2008

PRIVATE RENTED HOUSING COMMITTEE CERTIFICATE OF CORRECTION

DECISION DATED 9 April 2008

FOR Balnacroft Cottage, The Street, Crathie, By Ballater, AB35 5TS.

The correction to be made to the original Decision Sheet relates to the date under the heading
Date Tenancy Commenced.

The date on the original Decision Sheet shows as **9 April 2000** but should read **9 April 1990.**

The enclosed Decision Sheet has been amended to show the proper date.

.. J Taylor
Chairman

..... 7th May 2008
Date