

**PRIVATE RENTED HOUSING PANEL****RENT (SCOTLAND) ACT 1984****Notification Of Decision By The Private Rented Housing Committee**

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/EH6/634	22 April 2008	Tenant

ADDRESS OF PREMISES

3F2, 12 Lorne Street, Edinburgh, EH6 8QU

TENANT

Mr B Mills

NAME AND ADDRESS OF LANDLORD

Miss AH Hunter's Trust

AGENT

James Gibb Property Management
4 Atholl Place
Edinburgh
EH3 8HT

DESCRIPTION OF PREMISES

The subjects form a third floor flat in a traditional 4 storey tenement corner block, in a mixed residential area of the town. The accommodation provides a sitting-room, bedroom, kitchen/dining-room, bathroom and separate W.C.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
PROFESSIONAL MEMBER
HOUSING PANEL MEMBER

Mr D O'Carroll LLB(Hons) Dip LP
Mr D Marshall FRICS
Mrs L Nicholson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3200.00 p.a.	16 June 2008	4 June 2008

D O'Carroll

Chairman of Private Rented Housing Committee

3/7/08

Date

PRIVATE RENTED HOUSING PANEL FOR SCOTLAND

**Decision of the Private Rented Housing Committee, and reasons, in respect of
a reference by the Rent Officer under schedule 5(7) of the Rent (Scotland) Act
1984 (as amended by the Housing (Scotland) Act 2006) in respect of the
subjects at**

(3F2) 12 Lorne Street Edinburgh EH6 8QU

Brian Mills, (3F2) 12 Lorne Street Edinburgh EH6 8QU

TENANT

**Miss A H Hunter's Trust, c/o James Gibb Property Management, 4 Atholl Place,
Edinburgh EH3 8HT**

LANDLORD

Introduction

1. This is a reference from the Rent Officer following an objection by the tenant to his decision to register a fair rent of £3,500 per annum under the Rent (Scotland) Act 1984 (as amended by the Housing (Scotland) Act 2006) ("the Act") in respect of the subjects located at (3F2) 12 Lorne Street, Edinburgh EH6 8QU. The rent prior to that registration was £2,886 per annum which had been registered about three years previously.
2. The Private Rented Housing Committee ("the committee") inspected the subjects on 16 June 2008. Present at the inspection were the tenant, his wife, the members of the committee and the Clerk to the committee, Mr Shea. Following the inspection, a hearing took place in the subjects. The

landlord had been invited to make representations, to attend the inspection and to attend the hearing. The landlord chose to take no part at all in these proceedings.

Findings in fact

3. The property and the area in which it is located are as follows The subjects form a third floor flat in a traditional 4 storey tenement corner block, in a mixed residential area of the town. The accommodation provides a sitting-room, bedroom, kitchen/dining-room, bathroom and separate W.C. There is evidence of damp staining at the wallhead to both front and side elevations, and inside a wall press.
4. Given the unimproved condition of the property, and the defects in it noted above, the committee find that this property would be very difficult to let in its present form in the current rented housing market in which tenants tend to seek more modern amenities. Further, in the experience of the committee, there is a dearth of similar properties available on the open market in this condition as flats in poor condition tend to be improved to modern standards prior to being let. Accordingly, the committee is unable to determine what would be the open market value of the subjects in its present form. Neither the tenant nor the landlord provided any such comparables.
5. However, the tenant was able to provide direct and close comparable registered rents having inspected the register of fair rents. He advised the committee that other similar flats let by the same landlord had had rents registered. Those which have 2 apartments are at (1F3) 1 Lorne Place (£2650, registered April 2007); (2F1) 2 Lorne Place (£2950 February 2007); (1F1) 2 Lorne Place (£2650 September 2006). Those which have three apartments (like the present subjects) are at (1F1), (2F1) and (1F3) 18

Lorne Street (all £3,300 February 2007). Those which have 4 apartments are (2F2) 20 Lorne Street (£3950 April 2007); (Ground floor) 22 Lorne Street (£3450 March 2007) and 35 Lorne Street (position unknown £3600 April 2007). The committee accepts that evidence in full.

Reasons for decision

6. Since the committee is unable to determine what would be the open market value of the subjects in its present form, therefore it cannot apply the method of determining a fair rent by assessing the market rent and applying a 'scarcity deduction'. It must seek an alternative method. An alternative method is by comparison with comparable registered rents. That is the method which is adopted here.
7. The committee accepts that the said registered rents for 3 apartment flats in the Lorne area form a suitable starting point for the assessment of the a fair rent for the subjects. That figure is £3,300 per annum. Given the date of those registrations, an amount must be added to reflect the passage of time. That amount is assessed at £100 per annum making a total of £3,400.
8. However, the subjects suffer from extensive and persistent water penetration along the east facing walls. That water penetration affects the living room, bedroom and kitchen. Numerous attempts have been made to repair the problem without success. The working figure of £3400 per annum requires to be discounted to take account of that disadvantage. The question then is how to calculate the amount by which that working figure should be reduced to take account of that disadvantage.
9. The method chosen by the committee is as follows. In all matters, the committee has applied its knowledge, experience and expertise. The committee first estimated the likely cost of permanent repair. It then estimated the cost to the landlord. That cost was then written down over a

suitable period (assessed as ten years). That figure is then deducted from the working figure to produce the fair rent. Applying that method, the committee decided as follows.

10. To remedy the problem permanently is likely to require extensive and expensive works, in the view of the committee. Taking a broad view of the matter, it considers that the works might well cost in the region of £20,000 or so to complete. That figure would require to be divided between all twelve flats in the common stair producing a figure in the region of £2000 for each flat, including costs of capital. Writing that figure down over 10 years produces a figure of £200 per annum on a broad brush basis.

The Decision

11. The committee therefore determines that the fair rent for the subjects, as of the date of registration by the rent officer, is £3,200 per annum which is fixed for a period of three years from that date.

Final note

12. Finally, the committee notes that the tenant is at liberty to make an application to the Panel for a determination under section 14 of the 2006 Act with regard to the disrepair in the flat on the grounds that the landlord has failed in its repairing duties under that Act. This committee expresses no view whatsoever as to whether such an application might be successful or whether that should be done. The committee also notes however that while the rent fixed today is fixed for three years, either party is at liberty during that period to seek an alteration to that figure on the grounds that circumstances giving rise to this determination have materially altered.

D O'Carroll

Derek O'Carroll, Advocate
Chairman of the PRHC

3 July 2008.