

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

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/AB55/691	5 May 2009	Tenant

ADDRESS OF PREMISES

1 Langstane Lane, Keith, AB55 5FJ,

TENANT

Mr James Stronach

NAME AND ADDRESS OF LANDLORD	AGENT
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Langstane Housing Assoc Ltd
680 King Street
Aberdeen
AB24 1SL

DESCRIPTION OF PREMISES

Self contained ground floor flat, within 2 storey block C 1900 (renovated 1984) double glazed & electric heating. Comprising lounge with kitchen open plan, bedroom and bathroom, with internal floor space 36sq.m.

SERVICES PROVIDED

Common TV Aerial.

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

Mr E Miller LLB (Hons) Dip LP NP
Mr A Anderson
Mrs L Robertson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3000.00 p.a. (incl of Services <5%, n.v)	23 July 2009	23 July 2009

E Miller

Chairman of Private Rented Housing Committee

3/8/2009

Date

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

INSPECTION – 23 July 2009

PROPERTY - 1 Langstane Lane, Keith, AB55 5FJ

INTRODUCTION

1. The Committee comprised Mr E K Miller (Chairman), Mr Angus Anderson (Surveyor Member) and Mrs Linda Robertson (Housing Member).
2. The landlord is Langstane Housing Association Limited, 680 King Street, Aberdeen, AB24 1SL.
3. The tenant is Mr James Robb Stronach. This reference to the Private Rented Housing Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 in respect of the property arises from dissatisfaction on the part of the tenant.
4. The previous rent was £1,850 per annum. The landlord applied for a rent of £2,127.96 per annum. The rent determined by the Rent Officer was £2,255.52 per annum.

DESCRIPTION OF THE PROPERTY

5. On the morning of 23 July 2009, the Committee, accompanied by the Clerk to the Committee, Mr Robert Shea, carried out an inspection of the property. The property is situated off a narrow lane and also faces partly onto the main High Street running through Keith. A full range of shops and facilities are available within Keith and are all adjacent/nearby to the property.

6. The property is a ground floor one bedroom main door flatted dwellinghouse (extending to approximately 36 square metres) within a block of 13 other similar sized flatted dwellinghouses located within a converted building and partly within a later extension. There were no outbuildings serving the property. There was communal car parking and a communal drying area. The exterior of the property and the communal areas were all in good condition and well maintained.
7. The property itself comprised a good sized lounge with a kitchenette off, bathroom and bedroom. There was an entrance vestibule to the property with a large storage cupboard off this.

The living room was of a good size and in good condition with windows overlooking Keith High Street. The proximity of the High Street did mean a certain amount of traffic noise was heard within the property.

Off the living room there was a small but functional kitchenette. This was in good condition having been installed by the landlords approximately one year before. There was a window from the kitchenette overlooking the rear of the property.

Off the living room was also the bedroom, again with a window looking onto the High Street. There was a cupboard off the bedroom which housed the cold and hot water storage tanks. The bedroom was very small in size and was only adequate for a single bed. The bathroom was off the front vestibule and while somewhat dated was serviceable. The tenant had added an electric shower.

DOCUMENTATION

8. The Committee considered the documents provided by the landlord and the tenant. These were limited in number. The landlord had indicated the rents payable by other units within the larger property (£201.83 per month). The tenant had stated that he felt the rent was too high for the level of property provided. There were no details of recently registered

rent decisions in the area provided by the Clerk. All documentation that had been provided was taken account of by the Committee in reaching their decision.

HEARING

9. Neither party had requested a hearing and the Committee made their decision after discussion immediately following the hearing.

THE DECISION

10. 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 dwellinghouse 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 (Section (48(3))). Improvements by the landlord are taken into account. In reaching its determination, the Committee complied with its duty as set out above.
11. The Committee carefully considered all the evidence presented, together with the observations made by the Committee Members at the 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 for any scarcity element and making any appropriate disregards 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.

12. The Committee first considered whether to use registered rents as a comparable. No comparables had been produced or were available accordingly it was not possible to use this method. The Committee then considered whether to calculate an appropriate return based on the capital value of the property. Taking into account the recent fluctuations, (both upwards and currently downwards) in the capital value of property in Scotland and the lack of detailed information available to the Committee, the Committee did not consider it appropriate to assess the fair rent on the basis of a capital return to the landlords. The Committee therefore proceeded to consider the case using the market rent less tenants improvements less any discount for scarcity approach.
13. Using its own knowledge and experience, and having regard to its own investigations regarding properties available for let, (comparable examples being 146 Mid Street, Keith at £300 per calendar month and Flat 1, Royal Hotel, Mid Street, Keith at £325 per calendar month) the Committee considered that the market rent for a double-glazed, well decorated, unfurnished, carpeted one bedroom property of a type and in the locality of the present property would be around £300-£350 per month. However the Committee were of the view that there were a number of factors that would reduce the rent that would be achievable for the property in question. The location of the property on the main High Street led to traffic noise and a high volume of persons passing the windows of the property. This would have the effect of lowering the rent achievable. The fact that the kitchenette was small and open plan from the lounge would also have a negative effect on the rent achievable. Lastly in relation to the bedroom at the property, this was accessed direct off the lounge, which the Committee considered to be less favourable, and also was particularly small and would only accommodate a single bed thus reducing the range of potential tenants who would be willing to rent the property. The Committee considered that taking into account these factors the market rent for this particular property would be £250 per month

(inclusive of the services already provided by Langstane). The Committee noted the Tenant had made reference to the rent charged for a two bedroom council house in Keith, but could not take account of this as it is a concessionary rent charged by a social landlord and not a market rent.

14. Mindful of the observations by the Lord President in Western Heritable Investment Co. Ltd -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.
15. The Committee considered whether any discount should be made for scarcity in this case. The Committee were satisfied that there was no particular scarcity of property. Their investigations with local letting agents showed that there had been no particular increases in rent over the last couple of years. The Committee was satisfied that no reduction required to be made to scarcity for this type of property at this point in time.
16. In Section 49 of the Rent (Scotland) Act 1984, it is clear that the amount to be registered shall include any sums payable by the tenant for services. In this case there is the service of the provision of a communal television aerial, currently charged at £5.28 per year. There are no other services provided.

17. Having taken all relevant factors into account, the Committee determined that a fair rent for the property was £3,000 per annum inclusive of the services referred to in paragraph 16 above. In reach this decision, the Committee had regard to all documentary and other evidence in all the circumstances that are required to be take into account in terms of Section 48 of the Rent (Scotland) Act 1984. The Committee did note that the rent assessed by the Committee was higher than that currently charged to the landlords other tenants. The Committee noted that notwithstanding its decision the landlord may wish to consider whether only to charge the tenant in line with the other rents

18. The effective date is 23 July 2009.

Signed: **E Miller** [Chairman)

Date: 3/8/2009