

**PRIVATE RENTED HOUSING PANEL****Rent (Scotland) Act 1984****Notification Of Decision By The Private Rented Housing Committee****REFERENCE NO.**

PRHP/RR/16/0207

OBJECTION RECEIVED

6 June 2016

OBJECTION

Tenant

ADDRESS OF PREMISES

21 Abbey Grange, Newtongrange, Dalkeith, Midlothian, EH22 4RJ

TENANT

Mr David Begbie

NAME AND ADDRESS OF LANDLORDCastle Rock Edinvar Housing Association
1 Hay Avenue, Edinburgh, EH16 4RW**AGENT****DESCRIPTION OF PREMISES**

Semi-detached, brick-built, single-storey house with slated roof. Approximately 80 years old. Living room, 2 double bedrooms, kitchen and bathroom. Double glazed windows. Gas central heating with combination boiler. Modern electrical wiring. Solar panels on roof of rear elevation. Garden ground to rear and small area of garden to front. The property is close to local amenities, including shops and a railway station.

SERVICES PROVIDED

None

COMMITTEE MEMBERS**CHAIRPERSON**
SURVEYOR MEMBER
HOUSING MEMBERGeorge Clark
Robert Buchan**FAIR RENT**

£ 4.480.00 p.a.

DATE OF DECISION

12 September 2016

EFFECTIVE DATE

12 September 2016


Chairperson of Private Rented Housing Committee

Date 12 September 2016



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

21 Abbey Grange, Newtongrange, Midlothian EH22 4RJ

INSPECTION: 12 September 2016

STATEMENT OF REASONS

INTRODUCTION

1. This is a reference to the Private Rented Housing Committee for the determination of a fair rent under the Rent (Scotland) Act 1984 by the tenant, Mr David Begbie ('the tenant'), in relation to the property known as 21 Abbey Grange, Newtongrange, Midlothian EH22 4RJ. The landlords are Castle Rock Edinvar Housing Association, 1 Hay Avenue, Edinburgh EH16 4RW ('the landlord').
2. The rent being paid by the tenant in respect of the property was £3,996.96 per year, although the previous rent determination by the Private Rented Housing panel had been £5,600.00 per year. The landlord applied for rent of £4,900.44 per year for the property. The Rent Officer determined a rent of £4,900.44 per year. The tenant referred the Rent Officer's determination to the Private Rented Housing Committee.
3. The tenant was present at the inspection. The landlord was represented at the inspection and subsequent hearing by Mr Robert Foggo, Income Collection Manager.
4. The Committee comprised
 - a. Chairman George Clark
 - b. Surveyor Robert Buchan

THE DOCUMENTATION

5. The Committee considered all the documents referred to it by the parties. In particular, the application and the written representations from the tenant.

THE INSPECTION

6. The inspection took place on 12 September 2016. The tenant attended the inspection.
7. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Reasons.
8. The Chair of the Committee introduced the Committee to the tenant and the landlord's representative. The Committee proceeded to inspect the property.

DESCRIPTION OF THE PROPERTY

9. The property is a semi-detached, brick-built, single-storey dwellinghouse with a slated roof, erected circa 1937. The accommodation comprises living room, 2 double bedrooms, kitchen and bathroom. The windows are double-glazed. The gas central heating system has recently been upgraded by the landlord with the installation of a combination boiler. The electrical wiring is modern.
10. The property is situated in Newtongrange and is close to local amenities, including shops and a railway station. It is one of a substantial number of similar properties transferred to the landlord by Grange Estates in 2006.
11. The former landlords installed the original central heating system, but the cost of this was recouped from the tenant over a period of years, by way of wage deductions. The kitchen has been refitted by the landlord in recent years, although the tenant purchased his own worktops, rather than accept the ones which were being offered as part of the refitting. 12 solar panels have recently been installed on the rear elevation of the roof. This has been done at no cost to the tenant, who acknowledged to the Committee that he expects to make significant savings on fuel bills. The landlord has leased the roof to a third party, who installed the solar panels and, as a result, the tenant no longer has access to the loft space, as it houses a sun-amp heat storage battery.

THE HEARING

12. Following the inspection, the Committee held a hearing at George House, 126 George Street, Edinburgh and heard from the landlord's representative, Mr Foggo. The tenant was not present or represented at the hearing.
13. Mr Foggo told the Committee that the landlord generally abided by decisions of the Rent officer and was happy to do so in this case, as the Rent Officer's determination had been only 10% or so different from the figure the landlord had been seeking. The maximum increase the landlord would seek to achieve in rent reviews was RPI+1%. The landlord owned 5,800 properties, 300 of which were still subject to the Fair Rent system. The landlord's policy was that rent was calculated for each property by reference to a number of rent points, that figure then being multiplied by the estimated value of a rent point at the mid-term of a 3-year cycle. The landlord thus accepted that in Year 1, that value would be above the mid-term estimate, but that by Year 3, it would be below it. The maximum increase was RPI+1%. When the rent for the property had last been determined in 2013, the landlord had maintained it at the figure set by the Rent Officer prior to the tenant's appeal. Even if awarded a figure higher than that determined by the Rent Officer, the landlord would not increase a rent following an appeal, as it took its social responsibility very seriously.
14. Mr Foggo clarified for the Committee the position as regards the solar panels. The landlord did not receive any annual rental from the company that leased the roof areas of a number of its properties, but did not bear any of the cost of installation and maintenance. They had been installed purely for the benefit of tenants, who would achieve savings on fuel bills, which would more than compensate for the fact that they no longer had use of the loft space.

DECISIONS AND REASONS

15. Section 48 of the Rent (Scotland) Act 1984 as amended provides that:

a. 48.— Determination of fair rent.

- (1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the private rented housing committee, subject to the provisions of this section, to have regard to all the 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 dwelling-house 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.*
- (2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.*
- (3) There shall be disregarded—*
 - (a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and*
 - (b) any improvement (including any improvement to the furniture provided for use under the tenancy), or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his, and*
 - (c) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.*
- (4) In the application of this section to a converted tenancy, the references in subsection (3) above to the tenant under the regulated tenancy shall include references to the tenant under the tenancy before the conversion.*

20. 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. The Committee had the benefit of its own knowledge and experience of the rents passing and being asked in the local market.
21. The concept of scarcity is an essential feature of the fair rent scheme under the Rent (Scotland) Act 1984. It is contained within section 48(2) of that Act. The principle behind the inclusion of this section was that tenants "*in a situation of scarcity of supply*" (in other words, where there are more prospective tenants than available houses) should be protected from market forces. It is this factor that distinguishes a fair rent under the 1984 Act from an open market rent. Section 48(2) requires that a neutral market with no scarcity of houses be assumed. In that situation, prospective tenants can be assumed to be willing to pay only what the property is worth, with no additional premium being paid in order to secure a property that is difficult to come by. If that situation does not exist, and there is a shortage of houses, (thus artificially pushing up rents) then section 48(2) requires that the tenant be protected from the financial implications of that.
22. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in Newtongrange there could not be said to be a scarcity of similar properties to let at the present time. The Committee was satisfied that no deduction required to be made in relation to scarcity for this type of property at this point in time.
23. The Committee was aware from its examination of the Register of Fair Rents that between 29 April 2016 and 22 July 2016, rents had been registered for 25 comparable 3-roomed houses in Newtongrange, including 2 in Abbey Grange. All had been determined at £4,480 per year. Between 28 October 2015 and 19 February 2016, rents for a further 9 comparable 3-roomed properties in Newtongrange had been registered at £4,367 per year.

24. The Committee recognised that taking market rents and then discounting for any scarcity element and making any appropriate disregards as required by Section 48(3) might produce a higher rental figure, but could not find any justification for departing from the consistent pattern of so many recently registered rents. Given that the Committee is tasked with assessing a fair rent, it would be unfair to assess a rent that was out of line with so many rents registered for properties in close proximity to the subject property. The Committee decided, therefore, that the best method to use in this case was to have regard to registered rents for comparable houses in the area method at (a) *supra*.

25. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was **£4,480.00** per year. In reaching this decision, the Committee had regard to all the evidence, and to all the circumstances that must be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

26. The Committee determined that the effective date for the Fair rent in terms of Section 50(4) of the Act should be the date of the Committee's decision.

Signed 
George Clark, Solicitor, Chairman.

Photographs taken during the inspection of
21 Abbey Grange, Newtongrange, EH22 4RJ



Front

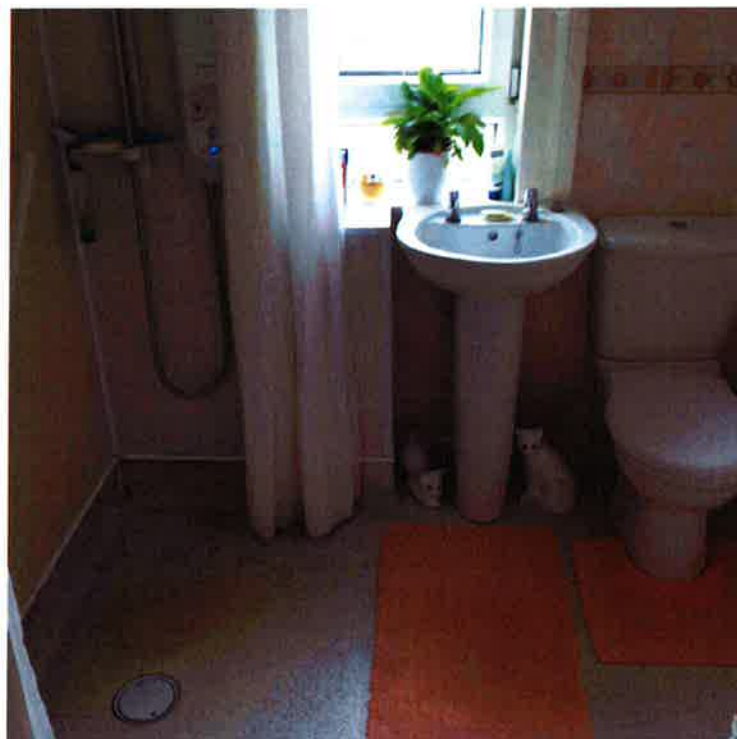


Rear

Photographs taken during the inspection of
21 Abbey Grange, Newtongrange, EH22 4RJ



Kitchen



Bathroom