



**PRIVATE RENTED HOUSING PANEL**

**HOUSING (SCOTLAND) ACT 1988 SECTION 25(1)**

**Register Of Rents Determined Under Statutory Assured Tenancies**

**REFERENCE NO.**

RAC/TD5/A52

**APPLICATION RECEIVED**

23 April 2008

**ADDRESS OF PREMISES**

Clifton Cottage, High Street, Kirk Yetholm, TD5 8PH

**TENANT**

Ms A Watson

**NAME AND ADDRESS OF LANDLORD**

**AGENT**

Mr D Morrison  
The Granary Cottage  
Cotfield Granary  
Lilliesleaf  
Melrose, TD6 9JW

**RENTAL PERIOD**

Monthly

**DATE TENANCY COMMENCED**

1 April 2003

**DESCRIPTION OF PREMISES**

One and a half storey terraced cottage C. 1800 with oil fired central heating and detached garage opposite on garden ground comprising on ground floor living room, dining area and kitchen; and on upper floor 2 bedrooms and bathroom.

**SERVICES PROVIDED**

None

**COMMITTEE MEMBERS**

**CHAIRMAN**  
**PROFESSIONAL MEMBER**  
**LAYMEMBER**

Mrs J Taylor LLB Dip LP NP  
Mr D Marshall FRICS  
Mr J Blackwood

**PRESENT RENT**

£ 4,620.00

**RENT DETERMINED**

£ 4,620.00

**DATE CONSIDERED**

8 August 2008

**DATE DETERMINATION TAKES EFFECT**

8 August 2008

**J Taylor**

Chairman of Private Rented Housing Committee

19<sup>th</sup> August 2008

Date

## **STATEMENT OF REASONS**

*in connection with*

**INSPECTION HELD ON 8<sup>th</sup> August 2008**

*in respect of the property*

*Clifton Cottage, High Street, Kirk Yetholm.*

### **1. THE PARTIES**

The landlord is David Morrison, The Granary Cottage, Cotfield Granary, Lilliesleaf, Melrose. The tenant is Andrea Watson, Clifton Cottage, High Street, Kirk Yetholm.

### **2. BACK GROUND**

The tenant's lease commenced on 1<sup>st</sup> April 2003. Whilst the original lease was an English style lease it complied with the terms of the Housing (Scotland) Act 1988 and was an assured tenancy. 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 31<sup>st</sup> March 2005. The tenant is currently paying rent of £4620 per annum (£385 per month). The landlord's agents had applied for an increase in the rent when they served the tenant with a notice of increase of rent on form AT2, dated 3<sup>rd</sup> October 2007, intimating a proposed increase in rent to £5940 per annum (£495 per month) with effect from 1<sup>st</sup> May 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 3<sup>rd</sup> October 2007

and it advised that the new rent of £5940 would take effect from 1<sup>st</sup> May 2008. Accordingly the committee were satisfied that they had jurisdiction to hear the application.

#### **4. THE INSPECTION**

The committee inspected the property, which is a terraced cottage located in the village of Kirk Yetholm. The property is over 200 years old. The walls of the cottage have been roughcast and the roof is slated. A flat roof extension at the rear of the property houses the kitchen on the ground floor and one bedroom on the upper floor. The accommodation on the ground floor comprises, lounge and living room, with kitchen off, at the rear.

On the upper floor there are two bedrooms and the bathroom.

The windows in the property are largely single glazed sash and case windows. Secondary glazing has been installed in the living room. There is one double glazed window in the main bedroom. Many of the window frames were rotten and in a poor state of repair.

The landlord had supplied basic kitchen units. The tenant supplied the appliances and an additional worktop. The tenant advised that there is a problem with slugs getting into the kitchen and living room.

There is oil fired central heating and the boiler is located in an out house at the rear. There are some concrete steps at the rear which lead to a raised garden area. The oil storage tank is also located at the rear. The garage and large garden area pertaining to the property are located across the road, opposite the property.

There are limited amenities available in Kirk Yetholm. More amenities are available at Town Yetholm which is approximately one mile from the property.

#### **5. THE HEARING**

The hearing was carried out at the local hotel following the inspection. Present at the hearing were the landlord who was accompanied by Shirley Fortune, his fiancée. The tenant was present and accompanied by Pat Tom, her Solicitor, Josh Watson, her son and Joanne Gaul, her friend.

The tenant advised the committee as follows:-

- She considered the increase in the rent to be excessive and more than the increase in inflation.
- No improvements have been made to the property over the last three years.
- She had contacted Hastings, Estate Agents in Kelso who had advised that in their experience the market rent of a two bed room property in Kirk Yetholm would be £300 to £350 per month.

- She referred to the evidence of rents sought that she had submitted with her written representations, namely:

Location/Address	Accommodation	Extras	Date of Advert	Rent
Kelso, Neworth Cottage	Hall, lounge, kitchen, 3 double bedrooms	GCH, recently decorated and carpeted.	March 2008	£500 per month
5 Grahamslaw Close, Jedburgh	Semi detached, hall, lounge, 3 bedrooms bathroom		March 2008	£395 per month
Kelso 2 miles	3 bedrooms	New laminated floor, newly decorated	June 2008	£395 per month
Nr Westruther	Lounge, kitchen, bathroom, 2 bedrooms, garden	OFCH	2008	£395 per month
Jedburgh	Lounge, kitchen, bathroom, cloakroom, 2 double bedrooms, garden, garage	Curtains and carpets, GCH	2008	£460 per month
Bainslie	2 bedrooms			£400 per month
Nr Heiton	2 bedrooms, garden and parking		May 2008	£325 per month
Melrose	2 bedrooms stunning views	DG, SFH, parking	June 2008	£415 per month
Earlston	2 bedrooms	GCH, DG, gardens, unfurnished	June 2008	£450 per month
Jedburgh	2 bedrooms	Unfurnished	June 2008	£345 per month
Hawick	2 bedrooms	Unfurnished	June 2008	£500 per month
Kelso	Three bedrooms	Unfurnished	June 2008	£495 per month
Duns	2 bedrooms		June 2008	£390 per month
Kelso	2 bedrooms	Unfurnished, garden, garage, newly decorated, new carpet, new kitchen	May 2008	£349 per month
Melrose	2 bedrooms	DG, ENSH, parking	June 2008	£415 per month
Jedburgh	3 bedrooms	Garden	June 2008	£425 per month
Kelso	2 bedrooms	Unfurnished	June 2008	£375 per month
Newton St Boswells	2 bedrooms		June 2008	£475 per month
Blainslie	2 double bedrooms,	SFCH	June 2008	£400 per month
Minto	3 bedrooms	DG, OFCH, Garden and parking	June 2008	£375 per month
Kelso	3 bedrooms	DG, CH, refurbished	June 2008	£425 per month

She also advised the committee of the following properties advertised for rent last week:-

Location/Address	Accommodation	Extras	Rent
St Boswells	2 bedrooms, one with ensuite, lounge and refurbished kitchen.	DG	£320
Bowden	3 bedrooms	DG, CH	£350
Near Kelso	2 bedrooms, spacious cottage		£375
Jedburgh	3 bedrooms	2 miles from amenities	£440
Leitholm	3 bedrooms		£430
Roxburgh	3 bedrooms		£400
Monklaw	Terraced cottage, lounge, kitchen, 2 bedrooms, bathroom, garden		£270
Heaton	2 bedrooms garden and parking		£325
Kelso	Spacious 2 bedroom cottage		£375

She also advised that the property was Council tax band C, which was approximately £120 per month.

The landlord advised the committee as follows:-

- The principal reason he is seeking an increase in rent is that a number of repairs are required to the property. The windows of the property require replacement and he has been advised that the roof is nail sick and will also require replacement. He has obtained estimates for installation of the double glazing of approximately £8000. It was necessary for him to obtain planning consent and also the prior consent of Historic Scotland. He explained that these have now been obtained and he intends to have the new windows installed shortly. He advised that his joiner had difficulty obtaining access to the property and had these difficulties not been encountered he would have expected the new windows to have been installed already.

- He has carried out a number of repairs to the property over the last three year. Repairs to a number of electrical sockets, repairs to the central heating and replastering a section of the wall in the kitchen.
- He also advised that the largest expense in relation to the property over recent years has been his solicitor's expenses.
- He referred to the comparable evidence that he had produced.

- *The Green St Boswells.*

This property is in a similar location and size to Clifton Cottage and is 10 miles from Kelso. The property has been offered for rent of £490 per month.

- *Makerstoun Cottage.*

This property is in a similar location to Clifton Cottage but has only one bedroom. Makerstoun is 5 miles from Kelso. The cottage is offered for rent of £525 per month. He acknowledged that council tax is included in the rent and appliances are provided.

- In response to the tenant's representations he advised that he had not been given prior intimation of a slug problem. He also stated that the tenants claim of 'bad electrics' was ill founded as his electrician had passed the electrics in the property.
- He challenged the tenants evidence of the suggested market rent provided by Hastings as they had not inspected the property.
- He referred the committee to the capital evidence of the neighbouring property Glenview, which was sold in September last year for £140,100.
- He had little comment to make on the evidence of rents sought, provided by the tenant.
- He advised the committee of the rent he pays for property he rents himself at Lilliesleaf. The property has two bedrooms, one public room and bathroom. His current rent is £395 per month and it will shortly be increased to £420 per month.

## **6. THE DECISION**

The committee had the following documents before them:-

- A copy of AT2 form dated 3<sup>rd</sup> October 2007.
- A copy of AT4 form dated 11<sup>th</sup> April 2008, completed by the tenant which states inter alia, at section 8, '*General Disrepair: rotting windows, damp and bad electrics.*'
- A copy of the lease dated 31st March 2003.

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

*'PRHP determined the rent of the property in December 2005. Since then I have carried out more minor repairs to the cottage, although have always encountered excuses and time delays from the tenant to a simple repair..I have recently been granted planning permission to replace all of the windows in the cottage.. I hope the windows will be installed in July- August. Regarding the AT4 form:*

*Rotting Windows: These are about to be replaced*

*Damp: It has been established by Border Timber Guard that the damp was likely to have been caused by condensation.*

*Bad Electrics: please see copy of electrical inspection report dated 28<sup>th</sup> May 2008.*

*I believe that a rent of £495 is fair and reasonable for the following reasons:*

*...Glenview, High Street, Kirk Yetholm sold in December 2007 for £140,100. This is next door to Clifton Cottage and has undergone large scale renovation since the sale.*

*Valley View, High Yetholm sold for offers over £145,000.*

*Therefore I believe that it is reasonable to estimate the value of Clifton Cottage to be £135,000....Using the formula applied by the Rent Assessment Committee in December 2005 of a return on capital of 4% plus expenses of £600 makes an annual rent of £6000 or £500 per month.*

*In addition I have attached copies of two properties available to let. The first is The Green St Boswells. This property is in a similar type of location and size to Clifton Cottage and is 10 miles from Kelso. The property has been offered for rent of £490 per month. The second property is Makerstoun Cottage, which is also located in a similar location to Clifton Cottage but has only one bedroom. Makerstoun is 5 miles from Kelso. The cottage is offered for rent of £525 per month. Both properties are similar to Clifton Cottage and I believe represent fair rental comparisons.*

- Copy of the landlord's planning application for replacement windows and estimate provided by R Mitchell (Glass) Limited.
- Electrical Compliance Certificate by RDH Electrical Services dated 28<sup>th</sup> May 2008, confirming that the electrical installation is satisfactory.
- Written representations from the Tenant which stated *inter alia*: *'Clifton Cottage rent is currently £385 per month, which I find quite a steep rent in comparison to other properties in the region, which are in better repair and closer. To amenities. I have listed properties to rent in the region attached to this form. Clifton Cottage is 7 ½ miles from amenities. It has old rotten rickety windows, a huge slug problem, and a large garden over the road, which I must keep in shape... I have to employ a gardener... Hastings Letting Agency of Kelso have informed me that a small terraced cottage in the condition that Clifton Cottage is in would be £300 to £350 per month.'* She provided copy newspaper cuttings of similar properties to rent in the area referred to above.

The committee considered this evidence and the parties' submissions. The committee contacted Buccleuch who advertised the property at St Boswells referred to by the landlord. They advised that the property had been completely renovated and had double glazing and a fitted kitchen. They considered St Boswells to be in better

location that Kirk Yetholm. They had recently acted in relation to two properties in the area of Kirk Yetholm. The first was at Town Yetholm. It was a three bedroom property with secondary glazing. It was advertised at £370 but was withdrawn by the landlord's agents as no tenants were found. Also a property at Attonburn, Town Yetholm which has three bedrooms, Double glazing and central heating. It is new to the market and is being advertised at £450 per month. There has been little interest in the property to date. In their view a two bedroom unimproved property in Kirk Yetholm would fetch rent in the region of £350 per month.

The committee also contacted Roxburgh Estates who advised that they had leased a three bedroom property in the Bowmont Valley, close to Kirk Yetholm, in July 2008 for £370 per month. They also considered that a property in Kirk Yetholm would fetch a slightly higher rent than the Bowmont Valley.

The committee considered all the evidence presented. Due to the present market conditions and the length of time it seems to take landlords to lease properties they preferred the evidence of the rents actually charged as opposed to the rents sought. These are the rent of the landlords own property and the rent of the property let by Roxburgh Estates in Bowmont Valley. They acknowledge that adjustments were required for differences in the size of the accommodation and the absence of double glazing in Clifton Cottage. In view of the foregoing, the committee decided that the open market rent for the property was £ 4620 per annum (£385 per month).

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 1<sup>st</sup> May 2008, the date indicated in the landlord's AT2 form which had been served on the tenant.

..... **J Taylor** .....

Chairperson, 19<sup>th</sup> August 2008