

**PRIVATE RENTED HOUSING PANEL****HOUSING (SCOTLAND) ACT 1988 SECTION 25(1)****Register Of Rents Determined Under Statutory Assured Tenancies****REFERENCE NO.**

RAC/TD6/A73t

APPLICATION RECEIVED

29 October 2010

ADDRESS OF PREMISES

Longnewton Mill Cottage, Newtown St Boswells, Roxburghshire, TD6 9ES

TENANT

Mr M Birch

NAME AND ADDRESS OF LANDLORDMr PR Wilson & Mrs HE Wilson
Trading as Phenn Farms
New Belses
Ancrum
Jedburgh
TD8 6UR**AGENT**Smith & Garratt
The Guildhall
Ladykirk
Berwickshire
TD15 1XL**RENTAL PERIOD**

Monthly

DATE TENANCY COMMENCED

September 2009

DESCRIPTION OF PREMISES

Detached cottage circa 1900 in rural location with electric white meter heating comprising four rooms, kitchen and bathroom. The property has a large garden area.

Gross internal floor area = 81 square metres.

SERVICES PROVIDED

None

COMMITTEE MEMBERS**CHAIRMAN**
PROFESSIONAL MEMBER
LAYMEMBERMr R Handley LLB
Mr D Marshall FRICS
Mr J Blackwood**PRESENT RENT****£ 3360.00 per year****RENT DETERMINED****£ 5100.00 per year****DATE CONSIDERED**

29 November 2011

DATE DETERMINATION TAKES EFFECT

1 January 2011

R Handley

Chairman of Private Rented Housing Committee

27 DECEMBER 2011

Date



PRIVATE RENTED HOUSING COMMITTEE

Case reference RAC/TD6/A73t

STATEMENT OF REASONS

PROPERTY:

**Longnewton Mill Cottage
Hewton St Boswells
TD6 9ES**



PRIVATE RENTED HOUSING COMMITTEE

HOUSING (SCOTLAND) ACT 1988

HELD ON: 8 MARCH 2011 AND 29 SEPTEMBER 2011

Re: The residential dwellinghouse at

**Longnewton Mill Cottage
Hewton St Boswells
TD6 9ES
("the Property")**

The Parties:-

Mr Mathew Birch resident at the Property

("the Tenant")

and

**Mr Peter Ronald Wilson and Ms Helen Wilson
Trading as Phen Farms, New Belses Farm,
Ancrum, Jedburgh**

("the Landlords")

The Committee comprised:

**Mr Ron Handley – Chairperson
Mr Donald Marshall – Surveyor
Mr John Blackwood – Housing Member**

STATEMENT OF REASONS

1. INTRODUCTION

This is a reference to the Private Rented Housing Panel ("the PRHP") for the determination of a fair rent and for a review of the terms of a draft Tenancy

Agreement under the Rent (Scotland) Act 1988 ("the Act") in relation to the Property.

2. THE DOCUMENTATION

We had before us a copy of the Application Form, a draft Assured Tenancy Agreement and various letters and e-mails from the Tenant and the Landlords. We also had a copy of the AT3(T) and the AT1(L). In considering this application, the Committee took account of these documents together with the evidence heard at the Hearings and the submissions made.

3. DESCRIPTION OF THE PROPERTY

The dwellinghouse forms a cottage with accommodation comprising a living room, bathroom (containing WC, wash hand basin and bath), a spare bedroom (currently used for storage), a main bedroom and a further room which is currently used as a second sitting room. An upper floor is accessed by a loft ladder and contains four pine lined rooms. These rooms have low ceilings and are tightly coombed. The Landlords have fitted new single glazed windows throughout the Property and secondary glazing has been fitted by the Tenant. The Property is heated by electric storage heaters which were installed in 2009. A coal burning stove in the second sitting room had been fitted by the Tenant's father (in the existing fireplace). This installation had previously heated radiators within the Property but had been disconnected when the electric heating was installed. There is a private garden with a number of sheds in the garden area. There is ample place for private parking. The Property is served by mains electricity, mains water and a private septic tank is located to the side of the Property.

4. THE INSPECTION

The Committee inspected the Property at 9.30am on 8 March 2011. The Tenant and his solicitor Ms Patricia Thom attended the inspection as did Mr Peter Wilson who was represented by Mr Hugh Garratt.

5. THE HEARINGS

A Hearing was fixed for 10.15am on 8 March 2011. The Tenant and Ms Thom were present as was Mr Wilson and Mr Garrett. At the Hearing Mr Garrett submitted that on the death of the Tenant's parents, the Tenant was entitled to a statutory assured tenancy. Mr Garrett then produced details of a number of comparables and drew the Committee's attention to particular properties. He referred to: Sawmill Cottage, a rural two bedroom cottage at Ancrum available at £580 per month; a rural two bedroomed barn conversion near Duns available at £550 per month; Ralmer Cottage, a two bedroom detached cottage with gas central heating near Innerleithen available at £550 per month; Rowan Cottage a two bedroom semi detached cottage near Peebles at £550 per month; 1 Darlingfield, Mellestain a three bedroom end terrace offered at £475 per month;

and a three bedroom farm cottage near Kelso available at £475 per month. He also referred to and a number of other flats/terraced properties which were available for rent at more than £450 per month. Mr Garrett suggested that the rent for the Property should be £450 per month. The Committee also heard submissions from Ms Thom who also produced comparables - a two bedroom mid terraced cottage in Kelso available at £350 per month; a one bedroom estate cottage at 10 Over-Roxburgh at £300 per month; a three bed room mid terraced house at 2 Glen Row with a monthly rent of £350; Whiteside Cottage West a two bed room estate cottage at Greenlaw with a proposed rent of £360 per month; 3 Ellenford Cottages a 3 bed room mid terrace cottage on offer at £425. She suggested to the Committee that the rent for the Property should be £350 per month. The Committee asked both parties to clarify a number of matters in regards to their comparables.

Mr Garrett asked the Committee to review the draft Tenancy Agreement and the Chairman declined to do so. However, it subsequently transpired that this was a matter which should indeed have been considered by the Committee at the Hearing. In any event, it appeared to the Committee at the Hearing that although it was likely that parts of the document could be agreed, no efforts had been made to do so in advance of the Hearing. Moreover the documentation before the Committee suggested that the Tenant was reluctant to "convert" his regulated tenancy to an assured tenancy.

Following the Hearing the Chairman wrote to both parties asking that the Tenant consider the draft Tenancy Agreement and that both parties attempt to identify areas of agreement.

The parties thereafter advised the Committee that although agreement had been reached in a number of areas, the Tenant was unable to agree some of the proposed clauses within the draft Tenancy Agreement. The parties requested that they be allowed to address the Committee in this regard and accordingly a further Hearing was held on 29 November 2011.

6. THE TENANCY AGREEMENT – DECISION

The following matters were discussed and agreed at the Hearing on 29 November 2011.

Clause 2

Ms Thom accepted that the draft Tenancy Agreement was an Assured Tenancy Agreement (and not a Short Assured Tenancy Agreement). The Committee noted that this was confirmed in Clause 17. Clause 2 made reference to a six month period but Mr Garrett agreed at the Hearing that the period of the agreement should be for 12 months. The Committee agreed that the period of the Tenancy Agreement should be for 12 months.

The parties agreed that the words "either party and" in line 5 of Clause 2 be deleted.

Clause 3

The parties agreed at the Hearing that the rent payable would be the rent determined by the Committee.

Clause 4

Mr Garrett confirmed that he had no objection to Miss Thom's proposed revision of Clause 4 and that the Tenant would only be responsible for the interior timbers - not the exterior timbers.

Clause 16

Miss Thom confirmed that she had received a revised lease plan and had no objection to that being annexed to the Tenancy Agreement.

The Committee noted that following their discussions (and prior to the Hearing) the parties had agreed the following revisions to the draft Tenancy Agreement.

Clause 3(c)

To be deleted in its entirety.

Clause 7

In the first line the words "any domestic animals" be deleted and substituted with the words "a cat and a dog".

Clause 10

It was agreed that the Landlords were responsible for meeting the costs of emptying the septic tank.

Clause 12

It was noted that there were no items in the inventory.

Clause 21

The parties agreed that there were no expenses involved in the preparation of the Tenancy Agreement.

Clause 23

It was agreed that the words "and such approval should not unreasonably be withheld" be added at the end of the clause.

The Committee found that the terms of the revised Tenancy Agreement were such that they could reasonably be expected to be found in an Assured Tenancy Agreement.

The Chairman asked Mr Garret and Ms Thom if they wished to make any further submissions with regard to the proposed rent and they declined to do so.

7. THE RENT - DECISION

In determining the appropriate rent for the Property, the Committee took account of the documents previously referred to together with the evidence, comments and submissions made on behalf of the Tenant and the Landlord.

The Committee noted that there was no fixed or preferred method for the fixing of a market rent. Whilst various methods can be used, including return and capital or referral to market evidence of other rents in the locality, it is for the Committee to determine the best method of fixing the market rent based on the evidence before it.

No evidence was produced in relation to capital values. Given the lack of available evidence the Committee decided it was not appropriate to proceed on the basis of capital values.

As indicated the parties provided the Committee with a number of comparable properties. Included was a two bedroom property near Duns which was a barn conversion. It appeared that this property had been renovated relatively recently and had full double glazing and oil fired central heating. This property had an enclosed garden and was available at a rent of £550 per month. Given its condition the Committee were of the view that this property would achieve a higher rent than the rent for the Property. Also available at £550 per month was a property in Peebles. This was a semi detached property which had oil fired heating and double glazing. This property was situated only three miles from Peebles and the Committee considered that it would be likely to attract interest from those who wished to live near a sizeable borders town with all its amenities. It would be likely to achieve a higher rent than the Property. We also had details of a three bedroom, detached bungalow in Coldstream available to rent at £450 per calendar month. It formed a detached bungalow comprising a living room, kitchen, bathroom, bedroom 3 and two further bedrooms. The property had gas central heating, double glazing and gardens to the front and rear.

As indicated, the Tenant made available some comparables at the Hearing. The first was a 2 bed room mid-terraced cottage in Kelso. This property had electric heating and was available to rent at £300 per month. The second was a single storey semi detached cottage which comprised a living room/kitchen, bathroom and double bedroom. This cottage was in Roxburgh and had oil fired central heating and double glazing and was available to rent at £350 per month. However, given that this was a one bedroom property, the Committee considered that the rent achievable would be less than that for the Property. The Tenant also made available details of a three bedroom cottage constructed on one and a half storeys in Innerleithen. This cottage was heated by a wood burning stove but no

further information was made available. The rent sought was £350 per month. We also had available evidence of a cottage in Greenlaw, Duns. This cottage comprised a lounge, kitchen, three bedrooms and bathroom. It had electric storage heaters and was available to rent at £360 per month.

As indicated, the upper floor of the Property has four rooms but given the height of these rooms and the manner of access to them, they could not be considered to be "habitable" rooms. They are rooms which could be used for storage, hobbies and the like. The Committee also considered that the system of heating the Property would for many prospective tenants be considered to be inadequate. From the evidence made available by the parties, from the information on the internet and in local Estate Agents and from our own experience and knowledge, the Committee were in agreement that a dwellinghouse similar to the Property, in the same locality would command an open market rent of around £450 per month. However this would be for a dwellinghouse with floor coverings and a modern kitchen with appliances. Given that the tenant provided the floor coverings and given the general condition of the kitchen, the Committee decided that a deduction of £25 per month should be made from the open market rent to reflect the present condition of the Property. Consequently the Committee determined that a reasonable, open market rent for the Property would be (in terms of Section 25 of the Act) £425 per month (£5100 per year).

The Committee considered the date on which the new rent would take effect from and decided that in accordance with Section 25(6) of the Act, the increase should take effect from 1 January 2011 (being the date specified in the Notice).

R Handley

Chairman

27 DECEMBER 2011

Date