

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
RAC/AB32/428	2 May 2006	Tenant

ADDRESS OF PREMISES

New Wester Echt, Skene, Aberdeenshire, AB32 7DR

TENANT

Mr O Morton

NAME AND ADDRESS OF LANDLORD

The Barmekin Trust

AGENT

SRG Young BLE, MRICS
Dunecht Estates Office
Dunecht
Westhill
Aberdeenshire
AB41 8RB

DESCRIPTION OF PREMISES

Detached house of one storey and attic linked to farm building circa 1900 with electric heating, three external stores and large garden comprising on ground floor, two public rooms, dining hall, one bedroom, study, kitchen/diner, w.c, utility room and store. Upper floor comprises three bedrooms and bathroom.

SERVICES PROVIDED

Private Drainage.

COMMITTEE MEMBERS

CHAIRMAN

Miss C Cooper LLB NP

PROFESSIONAL MEMBER

Mr C Hepburn ARICS

LAY MEMBER

Mr A McKay

FAIR RENT

£5060.00 per annum

DATE OF DECISION

20 June 2006

EFFECTIVE DATE

20 June 2006

C Cooper

Chairman of the Rent Assessment Committee

28/6/06

Date

STATEMENT OF REASONS

RENT ASSESSMENT COMMITTEE 20 JUNE 2006

NEW WESTER ECHT, SKENE, ABERDEENSHIRE AB32 7DR

**REGISTRATION NUMBER D031308
REFERENCE NUMBER RAC/AB32/428**

This is a reference to the Rent Assessment Committee under the provisions of the Rent (Scotland) Act 1984 ("the 1984 Act") following an objection by the Tenant, Mr O Morton. The Landlords are The Barmekin Trust.

The Rent Officer registered a rent of £5,060 per annum with an effective date of 21 May 2006. The Rent Assessment Committee received on behalf of the Tenant an objection to the rent dated 08 May 2006. The Committee inspected the property on 20 June 2006 and a Hearing took place at the property at which the Tenant appeared personally and the Landlords were represented by their Factor, Stuart Young.

PROPERTY DESCRIPTION

The subjects comprise a DETACHED ONE STOREY AND ATTIC COTTAGE, of stone and slate construction, attached to a range of working agricultural outbuildings, which do not comprise part of the subjects.

The accommodation comprises: -

ON THE GROUND FLOOR: - LOUNGE, BEDROOM, STUDY, DINING HALL, STORE, LIVING ROOM, KITCHEN, DINING ROOM WITH UTILITY AND TOILET OFF.

ON THE ATTIC FLOOR: - TWO BEDROOMS AND BATHROOM WITH FURTHER BEDROOM OFF REAR STAIR ACCESS.

Electric heating.

The floor area extends to around 232 sq. mts. on a gross external floor area basis.

Garden ground to front and side but no ground to rear. Mains water and electricity, drainage to septic tank.

TENANT'S SUBMISSIONS

The Tenant's written submissions dated 08 May 2006 indicate that a letter had been written to the Rent Registration Service, Dundee on 28 March 2006 seeking a meeting for consideration of outstanding repairs and items of maintenance which had not been addressed by the Landlords and advising that the Tenant was unwilling to agree an increase in the rental until these items had been dealt with. This letter appears to have

been misplaced or gone missing and the Tenant, in the circumstances, felt he had no alternative but to raise a formal objection with the Rent Assessment Committee.

The Tenant's principal concern was outstanding items of repair required to the property and surrounding conditions which the Landlords had failed to attend to, namely: -

1. The heating control panel, which controlled the electric heating system had been broken all winter and resulted in the Tenant having to manually switch the system on and off. Without the electric heating system, the house was very cold having only two coal fires.
2. The condition of bathroom suite, which had been in place when the Tenant took occupation of the property twenty-four years earlier. The Landlords had replaced the WC with one of a different colour, which was unsightly and had declined to replace the wash-hand basin or bath, the latter of which was in extremely poor order.
3. Asbestos sheeting from the roof of an adjoining farm building had been stacked up in the adjoining yard since March. When windy, the debris from the asbestos sheeting blew over the house and the car parking area. The Tenant was concerned about the potential health issues and indicated that, despite repeated requests for these to be removed, the Landlords had taken no action to remove the sheeting.

Neither in his written, nor verbal submissions did the Tenant make any comment on the level of rent set by the Rent Officer. He did not provide the Committee with any evidence to assist the Committee in its determination of rental. He emphasised his main concern was to ensure that the repairs were addressed by the Landlords and the asbestos sheeting removed.

LANDLORDS' SUBMISSIONS

Mr Stuart Young on behalf of the Landlords indicated that, in his opinion, the rental of £5,060 per annum set by the Rent Officer was appropriate. He made reference to relevant case law with regard to the setting of fair rents and, in turn, addressed the three methods of assessing rental as follows: -

Comparable registered rents

Mr Young indicated that he had found little evidence of comparable registered rents, principally in his opinion resulting from the size of the property and the ever decreasing number of similar protected tenancies. His only comparison was **Greenbrae Lodge, Echt**, which was located directly off the B9119. This was a detached property comprising at ground floor level two public rooms, dining kitchen, bathroom and cloakroom and at first floor level three bedrooms. There was a large basement, which was mainly used as a store and office. It was accessed directly off a public road and not by a long drive as in the case of New Wester Echt and also was not affected by proximity to farm buildings. It had extensive gardens, woodlands and a garage. In Mr Young's opinion Greenbrae Lodge was a more desirable property than New Wester Echt. A rent had been registered for this property in October 2004 of £5,640.

Return on capital

Mr Young indicated that he had consulted Mr John Rhind of Aberdeen & Northern Estates with details of the accommodation available at New Wester Echt seeking an indication of capital value. He had been advised that the property (subject to the fact that the valuer had not actually inspected the property) would value in the region of £200,000-£250,000. Mr Young based his assessment of return on capital on a value of £200,000, which he believed was conservative. He suggested that 4.5% per annum would represent a reasonable rate of return on capital that a Landlord might expect, i.e. £9,000. Mr Young noted previous Committee decisions on scarcity of properties in the locality of New Wester Echt of 50%. He stated that rental market conditions in the area were good; the Landlords currently had no properties available for let; but he did not anticipate any problem in leasing properties as and when they became available. Accordingly, he accepted an assessment of scarcity at 50%. This would result in a return of £4,500. The Committee had, in the past, accepted the Estate's management, maintenance and insurance costs of 15%, which produced a return of £5,175.

Comparable open market rents

Mr Young advised the Committee that the Estate had leased a number of properties over the last year. He provided the following by way of open market rental comparisons, the following: -

Braelea Farmhouse, Garlogie, was a smaller property comprising two public rooms, kitchen and bathroom at ground floor level and three bedrooms at upper floor level, which had achieved an open market rental of £5,700 in November 2005; and

Burnhead Farmhouse, Echt, Skene, which was again smaller, comprising two public rooms, kitchen and bathroom at ground floor level and two bedrooms at upper floor level, which was leased on the open market at £5,400.

When addressed by the Committee on the question of the level of increase in open market rentals achieved over the last two years, Mr Young indicated that at the lower end of the rental range there had been an increase of approximately 10% over the last two years; at the upper end, the rental returns had been relatively static.

COMMITTEE'S DETERMINATION

With regard to the Tenants' primary concerns regarding outstanding repairs and the Landlords failure to remove the asbestos sheeting, the Committee has no power to compel the Landlords to take action. The Landlord's agent did, however, indicate that all items referred to by the Tenants would be looked at. The Committee, however, in assessing rental is bound to assess rental based on current condition and could not assess rental based on the assumption that the repairs would be carried out by the Landlords.

No evidence having been produced by the Tenant on the rental, the Committee could only make their determination based on the evidence produced by the Landlords and the Committee's personal knowledge.

The Committee acknowledged that there was a lack of comparable evidence of properties registered under the 1984 Act. The Committee noted the single property cited by the Landlords. The Chairman had some years ago chaired a Committee assessing rental for Greenbrae Lodge, Echt and from her personal knowledge of the property acknowledged that Greenbrae Lodge was a superior property to New Wester Echt and that as such a lesser rent for New Wester Echt would be more appropriate. If determining rental by way of comparison to registered rentals the Committee would assess New Wester Echt at a rental on the region of £5,000 to £5,100 per annum,

From the Committee's personal knowledge of open market capital values in the area, they accepted the Landlord's submissions on the value of New Wester Echt. The Committee accepted that £200,000 may be considered conservative, but reflected the fact that the property was linked to farm buildings over which any purchaser would have no control. The Committee accepted the Landlords' submission that they should reasonably expect a return on capital of 4.5%. Based on the information provided by the Landlord's agents on the question of scarcity, the Committee were satisfied that 50% scarcity did exist in the area. The Committee also accepted the Landlords management expenses of 15%.

In considering open market rentals, the Committee noted the comparisons of smaller properties provided by the Landlords and also provided the parties with comparable rentals for similarly sized properties, which were within the knowledge of the Committee, which had achieved rentals of £10,800 per annum to £12,000 per annum. The comparison properties provided by the Committee generally appeared to be in better condition, with easier access and have the benefit of oil fired central heating and garage accommodation. In the Committee's opinion from their personal knowledge New Wester Echt would be expected to achieve an open market rental of around £10,100 to £10,200 per annum. Subject to scarcity of 50%, this would produce a rental return in the region of £5,050 to £5,100 per annum.

Given that all methods of determination arrived at roughly similar figures and given that none of the methods differed markedly from the rent assessed by the Rent Officer, the Committee agreed that a rent of £5,060 per annum was appropriate.

Accordingly, the Committee having regard to the requirements of Section 48(2) of the Rents (Scotland) Act 1984 determined a rental of £5,060 per annum with effect from 20 June 2006.

C Cooper

CHAIRMAN

DATE.....3/7/06.....