

**RENT ASSESSMENT PANEL FOR SCOTLAND**

**RENT (SCOTLAND) ACT 1984**

**NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE**

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<b>REFERENCE NO.</b>	<b>OBJECTION RECEIVED</b>	<b>OBJECTION</b>
RAC/KA18/470	5 <sup>th</sup> March 2007	Landlord

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**ADDRESS OF PREMISES**

**Kames Farmhouse, Muirkirk, Ayrshire KA18 3ND**

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**TENANT**

Mr J. Kelso

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**NAME AND ADDRESS OF LANDLORD/AGENT**

RJB Mining (UK) Ltd	Bell Ingram Rural Ltd
	Dum, Isla Road
	Perth, PH2 7AF

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**DESCRIPTION OF PREMISES**

Detached farmhouse (not fully wind and watertight) built approximately late 19<sup>th</sup> century of two storey stone construction with slated pitched roof, oil fired central heating and partial double glazing, comprising seven apartments, two bathrooms, open plan sitting room/kitchen, and utility room/scullery. (Two further rooms on the mezzanine floor are currently not fit for habitation).

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**SERVICES PROVIDED**

None

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**COMMITTEE MEMBERS**

<b>CHAIRMAN</b>	Mrs I R Montgomery
<b>PROFESSIONAL MEMBER</b>	Mr G. Campbell
<b>LAY MEMBER</b>	Mr J. Riach

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<b>FAIR RENT</b>	<b>DATE OF DECISION</b>	<b>EFFECTIVE DATE</b>
£ 6,000.00 per annum	20 <sup>th</sup> June 2007	20 <sup>th</sup> June 2007

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**I Montgomery**

Chairman of the Rent Assessment Committee

..... 20<sup>th</sup> June 2007 .....

**Date**

## **RENT ASSESSMENT COMMITTEE**

### **STATEMENT OF REASONS**

**INSPECTION: -20<sup>th</sup> June 2007**

**PROPERTY: -KAMES FARMHOUSE. MUIRKIRK, AYRSHIRE KA18 3ND.**

#### **1.0 INTRODUCTION**

1. The Committee comprised Mrs I.R. Montgomery (Chairman), Mr G. Campbell (Surveyor) and Mr J. Riach. This same Committee had previously inspected the property on 14<sup>th</sup> August 2003. The landlord is RIB Mining (UK) Ltd represented by Bell Ingram Rural Ltd., Durn, Isla Road, Perth PH2 7HF. The tenant is Mr James Kelso. This reference to the Rent Assessment Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 in respect of the detached farmhouse known as Karnes Farmhouse arises from dissatisfaction on the part of the landlord.

2. The previous rent was £4,260.00 per annum. The landlord applied for a rent of £6,000.00 per annum. The rent determined by the Rent Officer was £4,200.00 per annum.

#### **2.0 DESCRIPTION OF THE PROPERTY**

1. On the morning of the 20<sup>th</sup> June 2007, the Committee inspected the property which comprised a detached farmhouse, built approximately late 19<sup>th</sup> century, of two storey stone construction with roughcast north gable and a slated pitched roof. The farmhouse is set in 1.96 acres of land and has a number of outbuildings, including a garage. There is also a paddock. The outbuildings are not wind and watertight and are used only to a limited extent, if at all. There is a gaping hole in the roof of one of these outbuildings. The property is no longer used as a working farm. As would be expected of a farmhouse, the property is situated in a rural setting, but is within reasonable walking distance of the village of Muirkirk, which has a few basic shops and access to a bus service. There is a

drying green to the rear of the property, but it is badly overgrown with grass. There is a crack in the masonry to the front of the house beside one of the windows. There was evidence of rain penetration and damp within the property. There is full oil fired central heating with radiators and an electric immersion heater is also available for water heating. The windows are mainly double glazed PVC units but three are single glazed traditional case and sash windows. The property has been completely rewired to modern standard within the last ten years or so.

2. Some repairs have been carried out since the Committee last inspected the property. At the time of the last inspection, the property's water supply was from a private source. It is now linked to the mains water supply. The front door has been replaced, along with the area of flooring at the front entrance. The front door lintel has been replaced, as has the lintel at the side door. Unfortunately the stone lintel above the rear door of the property has still not been replaced. It remains badly cracked and, in consequence, that door remains unusable. A small tree protruding from this area of masonry indicates that this has been a long-standing problem, and this defect was noted as an issue of disrepair when the Committee inspected in August 2003. Some repairs have been carried out to the roof but some areas of the property are still not wind and watertight. The chimney flues have had some repair work carried out to them but the tenant continues to complain of debris coming down some of the chimneys and dampness penetration.

3. The accommodation extends to six bedrooms, a formal lounge, two bathrooms, an open plan sitting room/kitchen and a utility room/scullery. The six bedrooms, lounge and one of the bathrooms are located within the main house and the remaining rooms are in the extension. There is a mezzanine floor. Two rooms on the mezzanine floor are used for storage. The tenant refers to these rooms as the "maid's room" and the "cheese room". The tenant's wife advised that her son fell through the ceiling of the cheese room in October 2006. There is

a patched area in the ceiling of the sitting room below as a result of this accident. The Committee were of the view that the maid's room and the cheese room could not be used safely even for storage purposes, due to the condition of the flooring. The skylight in the cheese room on the mezzanine level (one of the rooms used for storage) still leaks as does the sky light above the main stair from time to time.

4. The front door of the property has now been replaced making that entrance useable. There is a front porch containing a cupboard. There is a mark on the floor which indicates that this area has been, and indeed may still be, subject to water penetration or damp. There is a good sized main hall and a traditional staircase. Some of the balusters are missing. The lounge is a large traditional, well proportioned room with two double glazed windows. The tenant has installed an ornate fireplace and mantelpiece. This chimney is fully functioning and the fireplace is in regular use. The property has six bedrooms, all of which are of generous size. The first bedroom is a large double room with a double glazed window. Part of the ceiling fell down approximately three months ago but this has been repaired. This is not the first time this has happened and various patched areas are visible on the ceiling. The second bedroom is also a large double room with a single window. The tenant complained of dirt coming down the chimney in this room. The third and fourth bedrooms are also large double rooms, each with a single double glazed window. The fifth and sixth bedrooms are smaller but are certainly large enough to be considered double rooms. Indeed, by comparison with rooms in more modern houses they are good sized double rooms. The second storey bathroom has old fixtures and fittings and the bath has lost much of its enamel. The handbasin is cracked. The tenant has replaced the WC.

5. The kitchen is spacious and comprises the kitchen area plus sitting room. The sitting room is located below the cheese room on the mezzanine floor. The floor of the cheese room cannot be used safely and holes are visible in the floor of these rooms (although the ceiling of the sitting room is intact). The state of the

floor above could impact on the safety of persons using this sitting room. The sitting room and kitchen are open plan, making for a large comfortable living space. The tenant created this living space by knocking two rooms together many years ago. The tenant installed the kitchen units and floor some years ago and replaced the existing Aga with a more modern equivalent. The room off the kitchen is used by the tenant as a laundry room/scullery. It is effectively a utility room, although the tenant does not refer to it as such. It has two very large old sinks which were supplied by the landlord. They are chipped but usable. There is another room adjacent to this scullery, which the tenant had intended to convert to a utility room. This room, however, is not wind and watertight and is unusable in its present condition. Daylight can be seen through holes in the ceiling. The ground floor bathroom has a window and the tenant has replaced all of the fixtures and fittings.

6. The landlord was not represented at the inspection.

### 3.0 DOCUMENTATION

1. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:

- a) Letter from Bell Ingram dated 23<sup>rd</sup> February 2007 and form RR1;
- b) Notification from the Scottish Executive of a Fair Rent appeal, dated 2<sup>nd</sup> March 2007;
- c) The decision notice and Statement of Reasons relative to the last inspection on 14<sup>th</sup> August 2003.

### 4.0 HEARING

As neither party requested a hearing, no hearing took place.

### 5.0 THE DECISION

1. 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 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”.* 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)). There were no such defects in this particular case, nor was any furniture provided. Improvements by the landlord are taken into account. In reaching its determination, the Committee complied with its duty as set out above.

2. The Committee considered carefully 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. In this case, neither party produced any evidence as to capital values, market rents passing in the area or registered rents of comparable houses.
  
3. 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. There was no evidence available regarding other registered rents passing in the area and, in view of the unusual character of this property, the Committee considered that it could not use this method in this case. The Committee was aware of a similar type of property available for let a short distance away from the property now under consideration. This property is Garpel Farmhouse, located near Sorn in the vicinity of Muirkirk. Garpel Farmhouse has four double bedrooms and two public rooms plus a large dining kitchen, two bathrooms and a utility room. It has mature gardens but does not have outbuildings or a paddock. It does have a double garage. In the particular circumstances of this case, the Committee was satisfied that the best method to use in this case was that of having regard to free market rents for similar properties and making a deduction for scarcity if appropriate. The capital value method could be used as a crosscheck.

4. The Committee considered carefully all the evidence available to them. The house itself is a substantial property, the majority of which is wind and watertight. There are areas within the house that are not. The mezzanine level is not wind and watertight, nor is the utility room/scullery leading into the kitchen or the room adjacent to it. There is water ingress at the back door and the lintel at the back door is potentially dangerous and the door cannot therefore be used. The sky light above the stairway leaks from time to time. The Committee estimated that approximately 15% of the house itself could not be considered wind and watertight. The Committee accepted that the outbuildings were not. The cheese room and the maid's room are not currently fit for habitation. That apart, the house appeared generally to be in reasonable structural condition, although it clearly requires a substantial amount of repair. Some repairs have been carried out since the Committee's last inspection, as detailed in paragraph 2.2. The landlord supplied information indicating that the cost of this work amounted to a total of £6,269 (plus VAT).

5. The property is bigger than Garpel Farmhouse but, based on information provided by the letting agent and the personal knowledge of one member of the Committee who had been inside Garpel Farmhouse some time ago, the Committee considered Garpel Farmhouse to be in better condition. It is also situated in a more desirable location, although it does not have the advantage of the considerable additional land that Kames Farmhouse has. The Committee is required to disregard any improvements made by the tenant and duly did so. The property being valued is not the property as seen but is the property as it would have been had the tenant not made any improvements.
  
6. The property to be valued therefore is a property without the benefit of a modern kitchen, with very old fittings in the bathrooms and without the various improvements made by the tenant. It is, however, a substantial property with six large bedrooms, a formal lounge, and additional rooms in the extension. It has a large area of land attached to it. It is in a rural location with attractive views over open countryside. Garpel Farmhouse is available for rent as an unfurnished property at £650 per calendar month. The Committee considered that to be a realistic rent for that property and the letting agent confirmed that there is currently serious interest in the property for that rental. The Committee considered that the market rent for Kames Farmhouse would be significantly lower to reflect its poor condition, albeit that it is a bigger property with more land attached. After making the adjustment necessary to reflect the condition of the property, the Committee considered that the market rent for the property, in the condition it would be but for the tenant's improvements, would be £500 per calendar month. The Committee used the capital value method as a cross check, which confirmed that this figure was a realistic and appropriate market rent.



7. 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.
  
8. The Committee considered whether any discount should be made for scarcity in this case. We were aware that Garpel Farmhouse had been available for let for several weeks. We were advised by the letting agent that various prospective tenants had offered to lease the property but these offers had proved unsuitable. There is now serious interest in the property and it is now likely to be leased in the near future. Using its knowledge and experience of the letting market in the area, the Committee was satisfied that £650 per calendar month was a realistic and appropriate rental figure for Garpel Farmhouse. Although smaller, Garpel Farmhouse is a more desirable property generally than Kames Farmhouse, except to prospective tenants wishing to utilize the paddock or who required a particularly large house. Even taking these factors into account, the Committee considered that the fact that Garpel Farmhouse had not been snapped up more quickly was a strong indicator that there was no scarcity for this type of property in the market at the present time. We determined therefore that no deduction for scarcity should be made. That being so, in this case the market rent is also

the Fair Rent calculated in accordance with the requirements of section 48(1) of the 1984 Act.

9. In section 49 of the Rent (Scotland) Act 1984, it is declared that the amount to be registered shall include any sums payable by the tenant for services. In this case no services are provided.

10. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £6000.00 per annum. In reaching this decision, the Committee had regard to all documentary and other evidence, and all the circumstances that required to be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

11. The effective date is 20<sup>th</sup> June 2007.

Signed .. **I Montgomery** .....Chairman)  
Date ..... *20th June 2007* .....