

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

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| REFERENCE NO. | OBJECTION RECEIVED | OBJECTION |
| RAC/BH22/586 | 29 March 2007 | Landlord |

ADDRESS OF PREMISES

105 Main Street, Newtongrange, Midlothian, EH22 4LW

TENANT

Mr C Burnett

NAME AND ADDRESS OF LANDLORD/AGENT

Castle Rock Edinvar HA Ltd, 1 Hay Avenue, Edinburgh, EH16 4RW

DESCRIPTION OF PREMISES

Brick built slate roofed end terrace cottage, C.1900 comprising living room, 3 bedrooms, kitchen and bathroom.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

| | |
|----------------------------|---------------------|
| CHAIRMAN | Mr R Handley LLB |
| PROFESSIONAL MEMBER | Mr D Marshall FRICS |
| LAY MEMBER | Mr M Innes |

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| FAIR RENT | DATE OF DECISION | EFFECTIVE DATE |
| £ 3,600.00 per annum | 9 July 2007 | 3 April 2007 |

..... **R Handley**

Chairman of the Rent Assessment Committee

..... 19/7/07

Date

RENT ASSESSMENT COMMITTEE

STATEMENT OF REASONS

PROPERTY:

105 Main Street, Newtowngrange

RENT ASSESSMENT COMMITTEE

HELD ON: 9 JULY 2007

PROPERTY: 105 MAIN STREET, NEWTONGRANGE

STATEMENT OF REASONS

INTRODUCTION

This is a reference to the Rent Assessment Committee for the determination of a fair rent under the Rent (Scotland) Act 1984 by the landlord, Castle Rock Edinvar Housing Association in relation to property at 105 Main Street, Newtongrange ("the dwellinghouse"). The tenant of the dwellinghouse is Mr C Burnett. The original rent paid by the tenant was £2,275.00 per annum. The landlord applied for a rent of £3,481.92 per annum. The Rent Officer determined a rent of £2,388.00 per annum. The reference arises from the dissatisfaction expressed on the part of the tenant.

The tenant was present at the inspection but the landlord was not.

Both the landlord and the tenant intimated that they did not wish to attend a Hearing.

THE DOCUMENTATION

The Committee had the following documents before it: the RR1 Application, the landlord's objection, the Rent Register pages and a letter from the tenant. The Committee also had information about registered rents of two properties in Newtongrange. One of these properties was at 94 Main Street, Newtongrange and the other at 96 Main Street, Newtongrange.

THE INSPECTION

Mr Iain MacLean, Clerk to the Rent Assessment Committee, introduced the tenant to the Committee.

The dwellinghouse was occupied and fully furnished during the inspection. Two of the beds were in use and many items were stored on the floors of each room. The inspection was severely limited as a result.

The tenant confirmed he provided the furniture in the dwellinghouse. The tenant advised the Committee that there was water ingress particularly in one of the bedrooms - it was explained to the Committee that water penetrated the area around the windows of that bedroom. The tenant also advised the Committee that the kitchen sink was leaking.

The tenant told the Committee that subsidence was affecting the dwellinghouse and he explained that the window sill in the front bedroom had cracked as a consequence of the subsidence. He also drew the attention of the Committee to the rear external wall of the building which had also been affected.

DESCRIPTION OF THE DWELLINGHOUSE

The dwellinghouse is located at 105 Main Street, Newtongrange and is a three bedroomed end terraced cottage built around 1900. The walls are brick and the roof is slated. The dwellinghouse is located near shops, a leisure centre, a library, a church, a swimming pool and licensed premises. Bus stops are located nearby and there is a regular bus service to and from Edinburgh. The Committee noted that the roof required structural repairs. Remedial works were required on the drain pipes and guttering.

As indicated, the tenant told the Committee that the dwellinghouse was affected by subsidence. He pointed out cracks in the external and internal walls and explained that his drains were blocked on occasions. From its own observations and from the tenant's description of the problems, the Committee accepted that subsidence was affecting the dwellinghouse. However without further investigation, the Committee were unable to determine the full extent of this problem and what remedial action would be appropriate.

The dwellinghouse has a front and back door and a garden area to the front, side and back. The dwellinghouse has PVC double glazing in all rooms. The dwellinghouse has gas central heating which was installed by the previous landlord.

The dwellinghouse comprises a living room, three bedrooms, a kitchen and a bathroom.

The front door opens to a hallway, off which is a double bedroom and a living room. A wooden stair leads to the bathroom and to two further bedrooms.

The living room has a window which overlooks the rear garden area. A dining area off the living room is used for storage.

The kitchen contains units, a sink and a cooker. The units, sink and cooker appeared to be ready for replacement. There is no floor covering. A door from the kitchen leads to the back garden.

The double bedroom on the ground floor has a window which overlooks the front garden area. The tenant's wife drew the attention of the Committee to cracks in the walls in this room (and throughout the dwellinghouse).

A wooden stair leads to the upper floor. The tenant told the Committee that the stair had been detached from the wall and it appeared to the Committee that the adequacy of the repairs may need to be investigated.

The bathroom has a WC, wash hand basin and bath. The Committee noted that the light switch was detached from the wall and required to be repaired.

The two bedrooms on the upper floor are both "doubles" - one overlooks the front of the property and the other the rear.

The electrical system throughout the dwellinghouse was adequate. The dwellinghouse requires to be extensively decorated. The tenant's wife told the Committee that the previous landlord had asked them not to redecorate the dwellinghouse to enable any subsidence to be monitored.

No services are provided by the landlord.

DECISIONS AND REASONS

Section 48 of the Act provides that:

(1) In determining for the purposes of this part of the Act what rent is or would be a fair rent under a regulated tenancy of a dwellinghouse, it shall be the duty of the rent officer or, as the case may be, of the Rent Assessment 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 dwellinghouse 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 dwellinghouses in the locality on the terms (other than those relating to the rent) of the regulated tenancy is not substantially greater than the number of such dwellinghouses in the locality which are available for letting on such terms.

In terms of section 48 of the Rent (Scotland) Act 1984, the Committee is required to fix a rent that is or would be a fair rent under a regulated tenancy.

In Scotland there are three accepted methods of determining a fair rent. These are:

- (a) determining a fair rent by having regard to registered rents of comparables 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);
- (c) calculating the appropriate return based on capital value of the property, taking into account the element of scarcity.

None of these methods is regarded as the primary method.

No evidence was produced in relation to capital values. However from its own knowledge the Committee were aware of a three bedroomed property in Main Street, Newtongrange which was on the market for a fixed price of £145,000. Similarly a two bedroomed semi detached house in 7th Street, Newtongrange was on the market at offers over £135,000. However the Committee were not aware of the condition of either of these properties. Moreover it appeared to the Committee that the dwellinghouse was affected by subsidence and this could clearly have a major unquantifiable impact on its capital value. The Committee decided it was therefore inappropriate to proceed on the basis of capital value.

In relation to the two Registered Rent properties at 94 Main Street and at 96 Main Street, it was noted that both had been modernised. However the Committee had little information about these properties. The Committee considered that they had no way of knowing or ascertaining the key assumptions used in determining how the registered rents had been arrived at. The Committee concluded that the direct interpolation from such registered rents would not provide the best way of arriving at a fair rent for the dwellinghouse.

Neither party had provided the Committee with specific information or evidence about rents (either in the open market or under registered rents terms) which could be used by the Committee as comparables.

The Committee considered that to establish a fair rent it was appropriate to compare open market rents and thereafter review what might be an appropriate deduction for scarcity and to make any other appropriate deductions (if any). From its own experience, knowledge and from the information available on the internet and in local Estate Agents, the Committee was of the opinion that a fully furnished three bedroom terraced cottage in Newtongrange would be available for rent of around £550 ("the market rent"). The Committee had evidence of a one bedroomed flat available for a rental of £450, and two, two bedroomed properties available at monthly rentals of £550 and £575. Both these flats were in Newtongrange.

The Committee was of the view that there was no scarcity in relation to properties similar to the dwellinghouse in its locality. This was confirmed by the numbers of properties available to let in publications such as the ESPC Newsletter.

However the Committee considered that a number of deductions should be made to take account of various factors.

Thus:

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|---------------------------------|-------------|
| Market rent (per month) | £ 550 |
| Less allowance - furniture* | £50 |
| Less allowance - misc factors** | <u>£200</u> |
| | <u>£250</u> |
| | <u>£300</u> |

* The Committee recognised that some prospective tenants would consider a property with furniture (regardless of condition) more desirable than an unfurnished property. Consequently the Committee considered it appropriate to take account of this factor.

** The Committee considered it appropriate to make a further deduction to take account of a number of other factors which included the poor state of repair of the roof, the water ingress, the inadequacy of the kitchen, the subsidence, the poor state of decoration and the general condition of the dwellinghouse which had not been renovated for a significant period of time. The Committee also noted that the dwellinghouse was situated on a busy main road. This contrasted with some of the previously referred to comparables which were located in side streets off the main road.

Taking into account all the circumstances which the Committee is required to take into account, the Committee concluded that a fair rent for the dwellinghouse would be £3,600 per year.

..... **R Handley** Chairman

..... 21/7/2007 Date