

**PRIVATE RENTED HOUSING PANEL****RENT (SCOTLAND) ACT 1984****Notification Of Decision By The Private Rented Housing Committee**

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/AB31/866	26 July 2012	Landlord

ADDRESS OF PREMISES

2 Craigmyle Cottages, Torphins, Aberdeenshire, AB31 4NJ

TENANT

Mr R Gallagher

NAME AND ADDRESS OF LANDLORD

Craigmyle Estates Ltd

AGENT

Craigharr House
Keithhall
Inverurie
Aberdeenshire
AB51 0LN

DESCRIPTION OF PREMISES

Stone built semi detached cottage 2/3bed livingroom kitchen and bathroom.

SERVICES PROVIDED

None relevant to the fair rent assessment

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

A McCamley BA LLB NP
A Anderson
M Scott

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 6,600 p.a.	15/10/12	15/10/12

Chairman of Private Rented Housing Committee

A McCamley

Date 15/10/12

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

INSPECTION: 15th OCTOBER 2012

PROPERTY: 2 Craigmyle Cottages, Torphins, Aberdeenshire

Introduction

1. The Committee comprised Mrs. Anne McCamley (Chairman), Mr. Angus Anderson (Surveyor) and Mr. Mike Scott (Housing Member).

The Landlord is Dr. Gordon Drummond of Craigmyle Estates Limited. The Tenant is Robert Gallagher who was represented at the hearing by Miss Louise Simpson of Adam Cochrane, Solicitors, Aberdeen. This reference to the Private Rented Housing Committee is for a determination of a fair rent under the Rent (Scotland) Act 1984 and is in respect of a semi-detached cottage known as 2 Craigmyle Cottages, Torphin. This reference arises from dissatisfaction on the part of the Landlord.

The previous rent was £3,500.00 per annum. The Landlord applied for a rent of £6,000.00 per annum. The rent determined by the Rent Officer was £4,350.00 per annum.

Inspection

2. The Cottage was inspected by the Committee on 15th October 2012 in the presence of the Tenant and his wife. Although the Landlord had been invited to the inspection by the Committee the tenant refused him access to the property. The Landlord and his wife remained outside within the surrounding courtyard area. Unhappy differences have arisen between the parties as a result of a dispute regarding the extent of the subjects lawfully tenanted.

The property is a semi-detached cottage on a country estate. It has a rural aspect and is situated around one mile east of the village of Torphins. Access to the cottage is via a rough track around 250m in length to the unclassified road and as a result thereof vehicular access to and from the cottage would be difficult in bad weather. The cottage forms part of the Craigmyle Estate properties. There is a large garden to the front with mature trees and shrubs. At the bottom of the garden a small area has been reserved for keeping geese and hens.

The cottage was built around 1850 and appears to have been refurbished around 1980. The accommodation is all on one level. It is a stone built property. The entrance is to the front and through a porch. The accommodation extends to three bedrooms, living room kitchen and bathroom. It has the benefit of solid fuel heating and is double glazed. The tenant replaced the living room fire with a more modern model. He installed some additional kitchen units albeit some time ago. He has replaced the bathroom suite with a second hand bathroom suite including an electric shower over the bath. We noted these as tenant improvements however concluded they had minimal impact for valuation purposes. The third bedroom/study is a small room being the result of a reconfiguration of the second bedroom to form a third bedroom.

The property is mainly double glazed, it has solid fuel heating. It is let unfurnished.

Outbuildings - a workshop and garage are situated across a courtyard at the rear of the cottage. They are within a former stable block. The workshop was padlocked however the Tenant had a key and we inspected the space in which he was storing tools, machinery and various other detritus. It was obvious from

the visual inspection that he has been using the workshop for storage for many years. There is also a work bench within the workshop.

The Tenant also has the key to a garage area and again the Tenant has stored a quantity of machinery including vehicles within that space. Again it is obvious from our visual inspection that the Tenant has used and enjoyed the garage for many years.

Documentaion

3. The Committee considered all the documents provided by the Landlord and the Tenant and took account of the documentation provided at the Hearing.

The Hearing

4. A Hearing was held at the request of parties. As a preliminary issue the Committee noted that the extent of the subjects of let are a matter of dispute between the parties. There is an ongoing Court action in this regard. The Tenant avers his tenancy includes the workshop and garage. The Landlord contends the tenancy comprises only the cottage and associated garden to the front. At the commencement of the Hearing the Committee stated their intention to determine a fair rent for the cottage along with the garage and workshop. The Committee decided to include the outbuildings in their rental valuation because, after visual inspection, it was clear the Tenant had had the use and enjoyment of these buildings for a number of years and the Landlord has an entitlement to an income therefrom. There is no Lease upon which to found. The Tenant has not been prevented from using the garage and workshop space from the commencement of the tenancy until rumblings of discontent from the Landlord in

the latter part of 2009.

In the relevant part of his submission to the Committee the Landlord asked us to consider determining a fair rent by reference either to capital value or to market rents. He did not produce an up-to-date valuation of the cottage but referred Committee to a figure of £250,000.00 mentioned as a possible valuation by the Tenant's Agents. He then extrapolated an annual rent by reference to interest achievable on that capital sum. The Landlord also produced a list of comparable market rent figures for three properties in the area and directed our particular attention to the cottage adjoining the reference property which he has extensively refurbished and now lets out at the sum of £850.00 per calendar month. The Committee had the benefit of viewing this cottage at the time of the inspection of the reference property.

The Tenant's solicitor did not wish to make formal submissions relying on the papers already before the Committee.

The Decision

5. The Private Rented Housing Committee do not accept the determination of the fair rent by the Rent Officer. The Committee determines that a fair rent for the subjects is £6,600.00 per annum with effect from the 15th October 2012.

Reasons for the Decision

6. The Committee carefully considered all the written evidence together with the observations of Committee members at the inspection and the points raised by parties in their written submissions and oral representations at the Hearing.

In particular the Committee considered which of the alternative methods of ascertaining a fair rent was the most appropriate in this case. It is settled law that the three main guidelines are:-

- (a) to compare registered rents for similar protected tenancy properties
- (b) to ascertain what would be a fair return to the Landlord on the capital value of his property and
- (c) to have regard to free market rents for similar properties.

In this case no comparable registered rents were available other than the 2009 registration for the reference property.

While there are a variety of options open to the Committee in Scotland to determine a fair rent in terms of Section 48 of the Act, the Committee having looked carefully at the Landlord's submission, rejected his method of calculating a fair rent by reference to capital value. This method involves a number of uncertainties and speculations. At the Hearing the Landlord could not produce an up-to-date valuation of the property and appeared to rely instead on a value suggested by the Tenant's Agents as a possible starting figure for negotiations in connection with buying out the lease.

In the exercise of its discretion and relying on its skill and judgement the Committee prefers the well established method of reaching a fair rent by having regard to market rents for similar properties in the area.

The Committee is aware through its own market knowledge reinforced by the information provided by the Landlord that market rents for similar 2 bedroomed

properties in the Torphins area is between £600.00 and £650.00 per month. Many of these properties have garages or outbuildings included in the rent. While the reference property is currently configured as two bedrooms with small study it is in effect a two bedroom property.

We had regard to the property at 1 Craigmyle Cottage which is currently achieving a rental of £850.00 per month. We believe this is a "one-off" exceptional property. The Landlord indicated the internal walls had 3" of insulation and it has been brought up to an extremely high standard. It is currently let furnished. The rent achieved is significantly outwith the norm.

The reference property is a cottage in a sought after location, the rooms are generously proportioned and there is a large garden. We believed the cottage would achieve a rent at the higher end of the normal market place rents which we assess at £650 per month. We arrived at this figure after researching the rental market through the Solicitors' Property Centre, the internet and having made enquires with Letting Agents and taken account of the properties provided by the Landlord. To achieve this rental the reference property would require to be brought up to a higher standard than that at which it is currently let. The property would require significant upgrading. The kitchen and bathroom fittings would need to be fully modernised. The property would need to be re-decorated and the floor coverings renewed. Other repair and maintenance work is required. Having regard to the foregoing matters we felt that a deduction of 20% in the annual rent would be appropriate. Thus the annual figure would decrease to £6,240.00. Over and above the valuation for the cottage we believe the outbuildings, which are more extensive than the norm, would increase the annual rental achievable by £360.00 per annum.

In short, we assessed the market rent at £7,800.00 per annum. We made various deductions to account for the upgrading required as described above and deducted 20% from that market rent. The figure brought out is £6,240.00 and we added thereto the sum of £360.00 being the market rent in respect of the garage and workshops. Accordingly the sum of £6,600.00 per annum is determined as a fair rent.

We then proceeded to consider whether any further deductions required to be made in terms of Section 48(2) the factor commonly referred to as scarcity but the Committee was satisfied that in the Aberdeenshire area as a whole there could not be said to be scarcity of similar properties to let at the present time. The Committee was satisfied that there is an equilibrium in the market at the moment.

Having taken all relevant factors into account the Committee determined that a fair rent for the property is £6,600.00 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.

7. The effective date is the 15th of October 2012.

A McCamley

Chairman Private Rented Housing Committee
15th October 2012.