

**Determination by  
Private Rented Housing Committee**

**Under and in terms of**

**Housing (Scotland) Act 1988 section 25(1)**

**Property at 35 Park Road Bonnyrigg, EH19 2AW**

**Parties: Charles Flockhart, 35 Park Rd  
Bonnyrigg, (Tenant)**

**Homes for Heroes per Neil Tulloch  
(Landlord)**

**Case reference: PRHP/RA/14/0292**

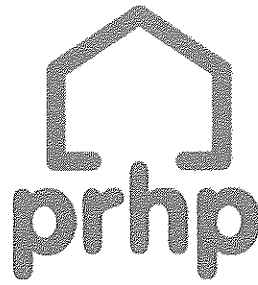
**Inspection and hearing: 5<sup>th</sup> June 2015**



1.The tenancy is a statutory assured tenancy in terms of the Housing (Scotland) Act 1988. The landlord served Form AT2 dated 4/11/14 on the tenant notifying him of an increase in rent to take effect from 1<sup>st</sup> January 2015. The landlord must give appropriate notice of any proposed rent increase. In this case the tenancy is on a monthly basis, the original tenancy having been produced, and accordingly we find the period of notice is one month. The landlord proposes to increase the rent to £345 per month. The tenant currently pays £235 per month.

2.The Private Rented Housing Committee comprised Mrs. A. McCamley (Chairman) Mr. D. Marshall (Surveyor) and Mr. Scott Campbell (Housing Member). The Committee inspected the property on the morning of 5<sup>th</sup> June 2015. The landlord (represented by Mr. Tulloch) attended both the inspection and the hearing. Mr. Tulloch was supported by Mr. Skeldon from Cambell Stafford Estates Ltd. The tenant also attended both the inspection and hearing and was supported by his friend Ms. Inglis. This reference to the Committee was made by the tenant.

3.The property forms part of a terrace of properties owned and managed by an organization currently known as Homes for Heroes, a company limited by guarantee and a registered charity. The reference property comprises living room, kitchen, lavatory/shower room and 3 bedrooms. The tenant has added a conservatory onto the back of the house but as



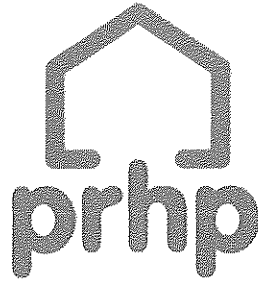
such it is a tenant improvement we are not able to take account of this in our assessment.

The property benefits from gas central heating, double glazing and the electrics are modernized. Two of the bedrooms can be classed as double rooms and the smaller bedroom is a generous single. The living room is spacious. The kitchen is small. It has sufficient space for the necessary white goods, however there is no room for a kitchen table and meals would need to be eaten in the living room. The lavatory/shower room is 'off' the kitchen. The property has been well maintained both inside and out. There is a small back garden.

It is situated in the village of Bonnyrigg, close to the main street and is convenient for shops, public transport and all other community facilities.

4.Both parties had requested a hearing which took place within George House, George Street, Edinburgh. We took account of the written information and heard evidence from the landlord and the tenant.

5.The tenant submitted he had lived in the house since aged 8 and a sizable increase in rent such as the one proposed by the landlord would result in him having to leave this home. He could not afford such an increase. He confirmed the landlord had installed a new kitchen, double glazing, central heating, and refitted the bathroom as a lavatory/shower room at his request within the past few years. No outstanding repair or maintenance issues were raised. Ms. Inglis, on behalf of the tenant, lodged details of a two bedroom property situated round the corner from the reference property which was advertised for let at £550 per month.



Details of two other properties were lodged. These appeared to be detached 2 bedroom cottages one in Howgate and the other in Newtongrage. These properties were offered for let at £625 - £675 per month.

6. The landlord had previously lodged a written submission detailing the history and aims of the charity in general and the history of this tenancy in particular. The tenant had had sight of this submission and did not raise any issues as to its accuracy. The landlord stood by this submission. Read short, and to paraphrase, the aims of the charity are to construct and maintain homes for military and emergency service personnel who have been left partially or totally disabled as a result of that service. The aim is to keep rents at about 90% of Local Authority levels.

In this case, the current tenant's father met the tenant criteria, on his death the tenancy passed to his wife and on her death to the current tenant. The current tenant does not meet the criteria, never having served in either the Forces or emergency services.

The landlord has determined that since the current tenant does not meet the specific criteria he is not entitled to a discounted rent.

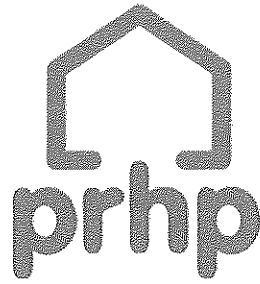
The landlord produced 3 examples of property to let within Bonnyrigg. From these examples 3 bedroom properties are advertised to let from £925 - £890 per month, while a 2 bed property is advertised at £600. The landlord has also sought advice from an experienced letting agent



who advised that £700 per month would be an appropriate and achievable open market rent.

7. The duty of the committee is to determine the rent at which the property might reasonably be expected to be let in the open market. The Committee considered carefully all the available evidence in this case. Using its own knowledge and experience and having regard to other properties for let in the area, the Committee considered that an open market rent for a double glazed centrally heated unfurnished 3 bedroom property with kitchen, lavatory/shower room, and living room in the locality of the reference property would be around £700 per month. We arrived at this figure after researching the rental market through newspaper advertisements, the internet, and having made our own enquiries with letting agents. We applied the balance of probabilities and our own expertise to the whole written and oral information available to us.

8. However in this case we do not believe this property would achieve that rental figure of £700 per month. We took account of the size of the kitchen and the unusual siting of the lavatory/shower room. In particular we believe the position of the only lavatory facility, (just off the kitchen), would deter a portion of the renting community. Having regard to the foregoing we felt that a deduction of 10% in the rent would be appropriate. Thus the rental figure would decrease to £630 per month. Accordingly, we determine this represents the current open market rent for the reference property.



9. The Committee determined that the increase in rent should take effect from the date of the hearing, ie 5<sup>th</sup> June 2015 as the Committee was satisfied that to find otherwise would cause undue hardship to the tenant. The landlord should also have regard to The Limits on Rent Increases (Scotland) Order 1989 No. 2469 in so far as those provisions may be relevant in this case.

**A. McCamley**

(Chairman) U

5/6/15