



**RENT (SCOTLAND) ACT 1984**

**DECISION by THE PRIVATE RENTED HOUSING  
COMMITTEE**

**PROPERTY at 65 GEORGE STREET HUNTLY**



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

**Notification Of Decision By The Private Rented Housing Committee**

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
Prhp.rr.15.0042	30/01/2015	Landlord

**ADDRESS OF PREMISES**

65 George Street, Huntly, AB54 8HJ

**TENANT**

Mr Robert Mitchell

**NAME AND ADDRESS OF LANDLORD**

Mr John Fraser  
18 The Dean East  
Linton  
EH40 3ED

**AGENT**

Stewart & Watson  
4 North Street  
Mintlaw  
Peterhead  
AB42 5HH

**DESCRIPTION OF PREMISES**

Remarks: the property comprises a traditional two bedroom terraced cottage style dwelling with living/dining area, kitchen and bath/shower room. There is a rear garden with shed.

**SERVICES PROVIDED**

None

**COMMITTEE MEMBERS**

**CHAIRMAN**  
**SURVEYOR**  
**HOUSING PANEL MEMBER**

Anne McCamley  
Colin Hepburn  
Linda Robertson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£5000	31/3/2015	31/3/2015

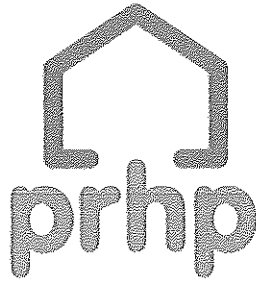
A. MCCAMLEY

Chairman of Private Rented Housing Committee

31/3/2015

Date

31/3/15



## **STATEMENT OF REASONS PRIVATE RENTED HOUSING COMMITTEE**

**INSPECTION: 31<sup>ST</sup> MARCH 2015**

**PROPERTY: 65 GEORGE STREET, HUNTLY**

### **INTRODUCTION:-**

The Committee comprised Mrs. Anne McCamley, Chairman, Mr. C Hepburn, Surveyor and Mrs. L Robertson, Housing Member.

The landlord is John Fraser, 18 The Dean, East Linton, East Lothian. The tenants are Mr. and Mrs. Mitchell. This reference for a Determination of a fair rent under the Rent (Scotland) Act 1984 is in respect of a terraced house at 65 George Street Huntly and arise from dissatisfaction on the part of the landlord.

The present rent is £2250 per annum. The landlord (per his agents Stewart & Watson, Solicitors, Mintlaw) applied for a rent of £7200 per annum. The rent determined by the Rent Officer is £5000 per annum.

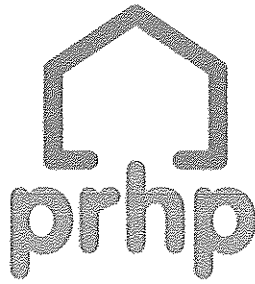


### **INSPECTION:-**

The property was inspected by the Committee on the morning of 31<sup>st</sup> March 2015. The landlord attended and Mrs. Irene Mitchell (tenant) allowed all parties to inspect the property. We are most grateful to Mrs. Mitchell for her courtesy. A Hearing took place at Stewarts Hall Gordon Street Huntly immediately after the inspection. Both parties attended the Hearing and we had the opportunity to hear submissions and to test evidence through questioning.

The reference property is situated close to the heart of the town of Huntly. Huntly is a small town, but is well provided with schools, playgrounds, sporting facilities (including both a cricket and golf club) a municipal swimming pool, outdoor activity centre and large supermarkets. The town is becoming a popular commuter town for Aberdeen. There are good road and rail links to and from the town.

The property comprises a terraced cottage style dwelling with sitting/ dining room and kitchen downstairs and 2 double bedrooms and bathroom upstairs. The property has a rear garden area some of which is paved to provide a 'sit outerie' in the better weather. There is also a garden shed which is used to store garden equipment.

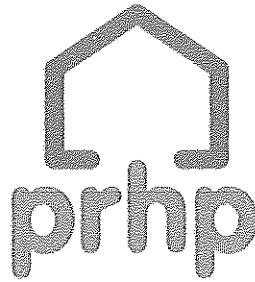


The property benefits from gas central heating, double glazing, a modern kitchen with the usual range of white goods, a modern bathroom with shower and overall is decorated and furnished to a high standard.

#### **THE HEARING:**

Both parties attended the Hearing.

The landlord referred to the written representations which had been prepared by his solicitors and previously circulated. The committee confirmed members had read the representations but noted they referred to 65 George Street as a 3 bedroom property whereas it comprised only two bedrooms and further, the representations stated the property was let with a garage/workshop whereas, in fact and on inspection, the outbuilding is no more than a garden shed. The landlord went on to state he is not the owner of the property, rather, he has a liferent. He appeared unclear as to the current ownership of the property, it may be a local auctioneer or perhaps his widow. In any event Mr. Mitchell is entitled to rent out the properties and to benefit from the rental income from that letting during his lifetime. He believes the Rent Officer's determination is too low when he considers the rents achieved by other properties in the area and referred the committee to the list submitted by his solicitors.



The tenant explained that when she and her husband moved into the property over 40 years ago there was no real kitchen, just a sink unit in the corner. Over the years the tenants built a wall separating the living area from the kitchen area and installed kitchen fittings and white goods. The tenants also installed gas central heating, refitted the bathroom ( the old bath was 40 years old), renewed the floor coverings, insulated the loft and kept the property in good decorative order.

The landlord acknowledged the tenant had carried out these works.

It is a matter of agreement between the parties that the landlord has reroofed the property and installed double glazing window units and 2 double glazed external doors.

#### **THE DECISION OF THE COMMITTEE:-**

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 dwellinghouse in question and to its state of repair, and if any furniture is provided for use under the tenancy to the quality quantity 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. Improvements by the landlord are taken into account. In reaching its determination the committee complied with its duty as set out above.

The Committee considered carefully all the evidence presented, together with the observations made by Committee Members at the internal and external 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:-

determining a fair rent by having regard to registered rents of comparable houses in the area or

taking market rents then discounting any scarcity element and making any appropriate disregards as required by section 48(3) or

calculating the appropriate return based on the capital value of the property taking into account any element of scarcity.

None of these methods is regarded as being the primary method. 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 or comparable registered rents. The landlord's agents produced a list of market rents for properties in Huntly.

Mindful of the observations by the Lord President in *Western Heritable Investment Company Limited 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. In this case, the landlord's agents had provided a list of rents achieved in the town although some of these were historic and there was no indication of the source of the information or the condition of the property at time of letting. The Committee's surveyor member was able to provide the Committee with a list of recently let properties drawn from the Aberdeen Solicitors Property Centre website. In the absence of any submissions relating to capital value or registered rents the Committee proceeded to consider this case using the market rent approach.

Using its knowledge and experience and having regard to other properties for let in the area the committee considered that a market rent for a double glazed centrally heated unfurnished two bedroom terraced house with modern kitchen and bathroom and garden with shed would be £6000 per annum. We arrived at this figure after researching the rental market through newspaper advertisements, the internet,





making enquiries with letting agents and considering the figures provided by ASPC and the landlord's agent. We had particular regard to the rents achieved by properties at 22a Littlejohn Street, 16 King Street, 8 Green Road and 65A George Street all of which are fully modernized 2 bedroom properties achieving rents of between £475 and £550 per month ie between £5700 and £6600 per annum.

The reference property has gained substantial benefit from the tenants' significant improvements. These improvements must be disregarded when setting a fair rent. Accordingly the committee is obliged to assess the property as unimproved ie without central heating, kitchen, modern bathroom or floor coverings. Using its own expertise, the Committee determined that a total of £1000 per annum should be deducted from the estimated open market rent of a property suitably modernized by a landlord, to reflect value of the tenants' improvements to the reference property.

We assessed the market value at £6000 per annum. Having disregarded the tenants' improvements the figure of £5000 per annum is determined as a fair rent.



We then proceeded to consider whether any further deductions should be made in terms of section 48(2) (the factor commonly referred to as 'scarcity') of the 1984 Act but the Committee was satisfied that in the locality 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 the relevant factors into account the Committee determined that a fair rent for the property is £5000 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.

The effective date is the 31<sup>st</sup> of March 2015.

A. MCCAMLEY

..... Chairman

..... 31/3/15 ..... Date