



PRIVATE RENTED HOUSING PANEL

Rent (Scotland) Act 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
PRHP/RR/16/0284	5 September 2016	Not Applicable

ADDRESS OF PREMISES

33 The Grove, Heathhall, Dumfries, DG1 1TN

TENANT

Mr Malcolm Walker

NAME AND ADDRESS OF LANDLORD

Dalloch Limited
c/o Direct Lettings Scotland Limited, 5-6
Melville Place, Edinburgh, EH3 7PR

AGENT

Direct Lettings Scotland Limited
5-6 Melville Place, Edinburgh, EH3 7PR

DESCRIPTION OF PREMISES

An unimproved three bedroom mid terraced pre war property. The accomodation comprises three bedrooms, living room, kitchen and bathroom with double glazing throughout.

Remarks: The Tenant had provided the central heating and had carried out extensive improvements to the property.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRPERSON
SURVEYOR MEMBER
HOUSING MEMBER

Jacqui Taylor
Carol Jones

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3770 p.a.	27 October 2016	27 th October 2016

J Taylor

Chairperson of Private Rented Housing Committee

Date

1/11/16



STATEMENT OF REASONS

in connection with

THE INSPECTION AND HEARING HELD ON 27th October 2016

In relation to the property

33 The Grove, Heathhall, Dumfries, DG1 1TN

Case Ref No:PRHP/RR/16/0284

The Committee Members were Jacqui Taylor (Chairperson) and Carol Jones (Surveyor member).

1. THE PARTIES

The Landlords are Dalloch Limited c/o Direct Lettings Scotland Limited, 5-6 Melville Place, Edinburgh, EH3 7PR. The Tenant is Mr M Walker. He has been tenant of the property for over 35 years. The tenancy is a registered tenancy in terms of the Rent (Scotland) Act 1984.

2. BACKGROUND

The current rent is £ 3460.64 per annum (£ 288.38 per month). The Landlords applied for the rent to be increased to £4320.00 per annum (£360 per month). The Rent Officer registered a rent of £4320 per annum (£360 per month) with effect from 11th August 2016. The Tenant referred the determination to the Private Rented Housing Panel ('PRHP'). The Committee members were Jacqui Taylor (Chairperson) and Carol Jones (Surveyor Member).

3. THE INSPECTION

On the morning of 27th October 2016 the Committee inspected the Property. The Tenant and his wife were present at the inspection. The Landlords' representative Kim Keenan was also present at the inspection. The Property is a former local authority mid-terraced, two storey dwelling house, constructed circa 1930's. It is located in a cul-de-sac within an area of similar residential properties in Heathhall around 2 miles north-east of Dumfries town centre. The accommodation comprises a hall, living room, three bedrooms, kitchen and bathroom. The floor area is approximately 79 square metres. There is gas central heating in the Property and the windows throughout the Property are double glazed. The Property has a garden to front and rear. The access to the rear garden is through the Property as there was no separate access. There is no driveway at the Property and the on street parking is limited. The Property is conveniently situated for public transport and local services. No services are provided by the Landlords.

The Tenant explained that he carried out many of the improvements to the Property.

In particular he has:

- Provided the floor coverings and the internal decoration;
- Replaced the kitchen and bathroom fittings (currently a “wet room”) twice;
- Provided the appliances in the kitchen;
- Paid for the installation of the central heating system and flame effect gas fire in the living room;
- Carried out the internal alterations to remove the rear vestibule and enlarge the kitchen and also installed a false ceiling above the stairs and re-plastered the living room and staircase walls;
- Repaired the retaining wall in the back garden and
- Replaced the front door.

4. THE HEARING

Following the inspection of the Property the Private Rented Housing Committee held a hearing at Georgetown Community Centre, Dumfries, DG1 4DF. The Tenant, his wife and also Kim Keenan, the Landlords' representative, attended the hearing. The parties advised as follows:

Malcolm Walker, the Tenant, explained that at the beginning of his tenancy he had been advised that the rent would increase by up to 10% every three years. He considers the proposed increase of £80 per month to be excessive. In terms of comparable properties he is aware that the Tenant of 31, The Grove, pays rent of £410 per month and the property has exactly the same accommodation as his property except the property is an end terraced house with a large garden and access for a driveway. He also said this neighbouring property has gas central heating, double glazed windows and a fitted kitchen.

Kim Keenan explained that the Landlords have a portfolio of around fifty seven properties in the Dumfries area. They lease thirty three properties in the Grove, of which around twenty are regulated tenancies. They are all three bedroom properties. Their remaining portfolio of leased properties in The Grove is let on short assured tenancies and the current rents of those properties range from £400 to £460 per month. At the higher end of the range the properties will have upgraded bathrooms and kitchens.

5. THE DECISION

The Committee had the following documents before them:-

5.1 A copy of form RR1, the Landlords' application for registration of the rent.

5.2 Written representations from the Landlords:

'The Tenant is disputing that the rental be increased by £80 pcm. This is not our intention. We would be looking to increase the rent by £20 pcm this year. We are aware that we cannot increase the rent that much in one go.'

5.3 Written representations from the Tenant:

'The increase is not a fair increase... our property is a three bedroom and not a two bedroom property with no drive and no back entrance. You state that in the previous three years Direct Lettings have fitted a new back door, which is true. But you do not seem to consider that we have ourselves put in central heating, a new kitchen and wet room for our disabled son. I cannot think of anything that has gone up by 30% ever. We have stayed here for 35 years and have made many improvements to make a home from a pre-war house. Also I have asked for two years to have the soffits fixed as the house is neither windproof or properly insulated. My husband is just on a retirement pension of £140 per week and I make £500 per month. To put up this rent by 30% per month is illegal and immoral.'

5.4 Evidence of sixteen comparable registered rents, within The Grove. The rents had been fixed by the Rent Officer and ranged from £3860 to £4420 per annum.

The Committee considered these documents and the parties' written and oral representations.

The Committee were mindful of the terms of section 48(1) of The Rent (Scotland) Act 1984, which requires the committee 'to have regard to all of 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 dwelling house in question and to its state of repair and, if any furniture is provided for use under the tenancy, and to the quantity, quality and condition of the furniture'. Also section 48(2) which requires them to 'assume that the number of persons seeking to become tenants of similar dwelling- houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling- houses which are available to let on such terms.'

The Committee carefully considered which of the three methods of assessing the rent was appropriate in this case. The three recognised methods used in Scotland are (1) determining the fair rent by reference to comparable registered rents in the area. (2) determining the fair rent by reference to market rents of comparable properties allowing for appropriate deductions for scarcity and (3) determining the fair rent by reference to the anticipated annual return based on the capital value of the property. They acknowledged that none of these methods is the primary method. The appropriate method depends on the facts and circumstances of each case. The Committee also gave consideration to the observations of the Lord President in *Western Heritable Investment Co Ltd v Hunter* (2004) which requires the Committee to proceed on the best available evidence and use the other evidence as a cross check, where possible.

The Committee externally viewed the properties that were listed in the rent register. They noted that they ranged from semi-detached five apartment properties to mid terraced four apartment and end terraced properties. The rents ranged from £3860 to £4420. The Committee found the rent differences to be inconsistent. Accordingly the Committee did not consider the comparable rents from the rent register to be the best evidence due to this inconsistency and also due to the fact that these rents had only been fixed by the rent officer and had not been tested by a Private Rented Housing Committee.

The Committee had obtained evidence of properties available to rent in the Dumfries area. They found that there are plenty of properties to rent. The rents of three bedroom properties ranged from £425 to £550 per month depending on type of property and location. They considered the market rents charged by the Landlords for their other properties in The Grove. As previously stated the rents ranged from £400 to £460 per month. After careful consideration and given that strength of market rental evidence the Committee determined that the method of using comparable market rents was the best evidence available. The Committee acknowledged that as there is a reasonable supply of similar properties to rent in the Dumfries area there is no scarcity of supply of such properties at this time.

The Committee considered the said details of the other properties available to rent in the area. The Committee considered the market evidence and reflected that the average market rent of improved properties comparable to 33 The Grove, Heathhall, Dumfries, DG1 1TN was £5520 per annum (£460 per month). The Committee acknowledged that an adjustment was required to reflect the fact that the Landlords of 33 The Grove, Heathhall, Dumfries did not provide the central heating, decoration or

floor coverings and also the extensive Tenant's improvements to the bathroom and kitchen in the Property. They considered that a deduction of £1750 per annum was reasonable to reflect these differences.

After consideration of all these factors the Committee decided that the fair rent for the property was £3770 per annum.

In reaching this decision the committee have had regard to all the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.

This decision takes effect from the 27th day of October Two Thousand and Sixteen.

J Taylor

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Chairperson, 1st November 2016