



PRIVATE RENTED HOUSING PANEL

HOUSING (SCOTLAND) ACT 1988 SECTION 34(1)

Non-determination for Short Assured Tenancy

REFERENCE NO.

RAC/ML3/S33

APPLICATION RECEIVED

15 June 2007

ADDRESS OF PREMISES

24e Westwood Crescent, Hamilton, ML3 8LH

TENANT

Ms N Hamilton

NAME AND ADDRESS OF LANDLORD

Mr & Mrs Stewart
17 Green Ferns
Blackwood
South Lanarkshire
ML11 9XT

AGENT

RENTAL PERIOD

6 Monthly

DATE TENANCY COMMENCED

29 May 2004

DESCRIPTION OF PREMISES

Modern first floor furnished cottage flat comprising three rooms, kitchen and bathroom

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
PROFFFESSIONAL MEMBER
LAYMEMBER

Mrs J Docherty BL
Mr A English FRICS
Mr S Campbell

PRESENT RENT

£ 360.00 p.c.m. (£ 4320.00 p.a.)

The Private Rented Housing Committee did not make a determination when they considered the matter on 27/9/07

Remarks No access was gained to the property

J Docherty

Chairman of Privat Rented Housing Committee

28. IX . 07 .

Date

PRIVATE RENTED HOUSING PANEL OF 27TH SEPTEMBER 2007

STATEMENT OF REASONS

PROPERTY Upper floor cottage flat, 24e Westwood Crescent, Hamilton, ML3 8LH (hereinafter referred to as “the flat”)

INTRODUCTION

This is an application to a Private Rented Housing Panel (“the Panel”) for the determination of the rent payable under Section 34 of the Housing (Scotland) Act, 1988 (“the Act”). The applicant is the tenant, Ms. Natalie Hamilton and the tenancy is a Short Assured Tenancy. The landlords are Graham and Vivien Stewart, 17 Green Ferns, Blackwood, South Lanarkshire. M11 9XT.

The tenant applied to the Panel for a determination of rent on the prescribed form AT4 dated 24th April 2007. Attached to the form were copies of the existing Tenancy Agreement dated 25th May 2004, the relative Form AT5 and various Notices of Continuation of the Agreement.

The rent currently being paid by the tenant is £360 per month (£4320 per annum). The Panel noted that on 10th November 2005 the tenant was advised that her rent would be increased to £375 per month at the commencement of the six month period beginning in April 2006 and subsequent Continuation Notices make reference to a rent of £375 per month.

The landlords in their written representations of 10th July 2007 state that after discussion with the tenant, they agreed in view of her circumstances as a DSS tenant, to accept a rent at the rate of £360 per month.

INSPECTION

The Panel were unable to obtain access to the flat on the morning of 27th September 2007. An external viewing of the property established that the flat is located on the upper floor of a block of eight cottage flats. The block is a fairly new building which is constructed of buff coloured brick and roughcast with a tiled roof. It would appear that the flat has its own front door and internal stair. At the time of the inspection, bins at the front of the flat were full and very untidy. At the back of the block the common garden was untidy, the wooden perimeter fence was broken and a lot of rubbish had been dumped at the side of the block. There is an off- street parking area in front of the block.

It is likely, in view of the age of the flat that the facilities within the flat are modern. There is no reference in the Tenancy Agreement to central heating but the tenant in form AT4 refers to “fan assisted heaters”.

The block lies to the south of Laighstonehall Road within reasonable distance of the centre of Hamilton. The area is mainly an estate of council housing built probably in the 1930s or 40s. In the estate, some pockets of land have been cleared and small private housing developments have been constructed. The shopping and transport are likely to be satisfactory.

DECISION

As no Hearing had been requested, the Panel considered firstly the written documentation before them, namely

1. AT4 of 24th April 2007.
2. AT5 and relative Tenancy Agreement of 25th May 2004
3. Tenancy Continuation Notices
4. Landlords' written submissions.

The Panel's powers and duties are set out in terms of s.34 (3) of the Act which requires that where an application is made to a Panel under subsection (1) with respect to the rent under a short assured tenancy, the Panel shall not make such a determination as is referred to in that section unless they consider-

(a) that there is a sufficient number of similar houses in the locality let on assured tenancies (whether short assured tenancies or not), and

(b) that the rent payable under the short assured tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to obtain under the tenancy having regard to the level of rents payable under the tenancies referred to in paragraph (a) above.

Having regard to these criteria, the Panel identified from internet sources and local newspapers that there are indeed a great number of similar houses available to let in the area of Hamilton lying to the south of Laighstonehall Road. The rents for these houses are similar to and often higher than the rent of £375 per month.

Accordingly, the Panel made no determination of the rent for the flat.

In reaching their decision, the Panel has had full regard to the requirements of the Act.

Chairman

J Docherty

Date

16. 8. 07