



**PRIVATE RENTED HOUSING PANEL**

**HOUSING (SCOTLAND) ACT 1988 SECTION 34(1)**

**Non-determination for Short Assured Tenancy**

**REFERENCE NO.**

RAC/KY11.SA61

**APPLICATION RECEIVED**

25 August 2011

**ADDRESS OF PREMISES**

56 Spencerfield Road, Inverkeithing, KY11 1PG,

**TENANT**

Ms M Wielgo

**NAME AND ADDRESS OF LANDLORD**

Peter Rasberry  
51 Cameron Street  
Dunfermline  
KY12 8DP

**AGENT**

Ms Welsh  
Homes in Focus  
5 South Knowe  
Corssgates  
Dunfermline  
Fife

**RENTAL PERIOD**

Monthly

**DATE TENANCY COMMENCED**

13 June 2008

**DESCRIPTION OF PREMISES**

Three bedroom terraced house, with double glazing and central heating

**SERVICES PROVIDED**

None

**COMMITTEE MEMBERS**

**CHAIRMAN**  
**PROFESSIONAL MEMBER**  
**HOUSING MEMBER**

Mrs Judith Lea LLB MBA MSc  
Mrs G Wooley MRICS  
Mr A McKay

**PRESENT RENT**

**£495**

The Private Rented Housing Committee did not make a determination when they considered the matter on 4 November 2011.

**Remarks**

**J Lea**

Chairman of Private Rented Housing Committee

Date 4 November 2011



## Statement of decision of the Private Rented Housing Committee under Section 34 (1) of the Housing (Scotland) Act 1988

prhp Ref: RAC/KY11/SA61

Re : Property at 56 Spencerfield Road, Inverkeithing, Fife ("the Property")  
4 November 2011

### Introduction

This is an application by the Tenant for a determination of the rent payable under Section 35(1) of the Housing (Scotland) Act 1988. The Tenant is Marzena Wielgo. The Landlord is Peter Raspberry, 51 Cameron Street, Dunfermline. The Landlord's Agent is Jakky Welsh, Homes in Focus, 5 Southknowe, Crossgates, Dunfermline. The Tenancy is a Short Assured Tenancy. The Tenant applied to the Committee for a determination of rent on the prescribed form AT4 dated 28 August 2011. The Committee had before it the following documents:

- (1) Tenancy Agreement between Marzena Wielgo and Peter Raspberry dated 13 June 2008.
- (2) Form AT2 dated 31 March 2011.

Additional documentation lodged at the hearing:

- (3) Particulars for property at St Johns Court, Inverkeithing.
- (4) Particulars for property at Kinnell Road, Inverkeithing
- (5) Print out with regard to local housing allowance rates.
- (6) Information from Zoopla Website.

### Inspection of the Property

The Tenant and the Landlord's Agent were both present at the inspection.

This is a two storey terraced house built mid/late 1970s. The accommodation comprises entrance hall, living room, three bedrooms, kitchen and bathroom. There is an area of decking to the rear and a front garden to the front of the property. The property has gas central heating and double glazing. The bathroom has modern units and the property has a fitted kitchen. The shower was installed by the Tenant. Most of the furniture in the property has been supplied by the Tenant. The Tenant has replaced the fridge freezer in the property. The property is situated in a residential area within Inverkeithing. There are local amenities nearby.

## **Hearing**

After the inspection the Committee held a hearing at Inverkeithing Civic Centre, Queen Street, Inverkeithing. The Tenant and Ms Welsh, the Landlord's Agent were both present. It was confirmed that the tenancy was a Short Assured Tenancy. The Committee were advised that the current rent of £495 per month had been fixed in June 2008 and there had been no increase since. The Landlord's Agent referred to the local housing allowance, which at the time of the application for the rent increase was £550 per month for a three bedroom house. The Landlord's agent also referred to a comparable property in St John's Court, Inverkeithing, presently being advertised for a rent of £550 per calendar month. This was a three bedroom terraced house. The Landlord's Agent also referred to a property in Kinnell Road, Inverkeithing, being a three bedroom flat available for rent at £575 per month. The Landlord's Agent also referred to a property in Meldrum Court, Dunfermline which had three bedrooms and was available for let at a rent of £535 per calendar month and a property in Johnston Park, Cowdenbeath, which was available for rent at £540 per month.

The Tenant stated that the rental value depended on what the property was. She pointed out that St John's Court, although close by, was next to a field and was in a much quieter area. This property also had UPVC doors, rather than wooden doors. The Tenant stated that her property was opposite the Fraser Avenue Estate where there was often trouble with the police. She indicated that the Council were charging less than £200 per fortnight for the Council houses nearby. The Tenant also referred the Committee to the Zoopla Website, which suggested that the rental value for the property would be £383 per calendar month.

The Landlord submitted that rents had increased over the last few years but the Tenant submitted that they had not. The Tenant submitted that £540 per calendar month was not a fair rent for the property in its present state of maintenance. The Landlord's Agent pointed out that the Landlord had done what he could to maintain the property but there had been difficulty with tradesmen refusing to go back to the property due to the Tenant's attitude.

## **Decision**

From the inspection the Committee considered that repairs required to the property were minor. The Committee considered that the property was in a good state of repair. The Committee noted that the Tenant had replaced the fridge freezer and that the Tenant had requested that the landlord replace the washing machine. However the Committee further noted that the Landlord had offered to replace the washing machine with a reconditioned washing machine but the Tenant did not want this. The Tenant had concerns with regard to the front and back door of the property but the Committee did not find them to be in a serious

state of disrepair. The Tenant also had concerns re the front fence post and the decking. The Committee considered that the decking was in a good state of repair and that the defect with the fence post was minor.

In terms of Section 34(3) of the Housing (Scotland) Act 1988, the Committee have to consider whether or not there are a sufficient number of similar houses in the locality let on Assured Tenancies and whether or not the rent payable under this Short Assured Tenancy is significantly higher than the rent the Landlord might reasonable be expected to obtain under the tenancy having regard to the level of rents payable in the area. The Landlord provided evidence of comparable properties in the area. The property at St John's Court, Inverkeithing is a three bedroom terraced house located not far from the property in question. This is currently being advertised for a rent of £550 per calendar month. The Committee consider that this is a good comparator. The Committee took on board the Tenant's comments with regard to it being a slightly better area due to looking out on fields. The Committee however did not consider that this would significantly affect the amount of rent which could be obtained for the property. The Committee also noted that there was a flat in Kinnell Road, Inverkeithing available for rent at £575 per calendar month. The Committee consider that Kinnell Road, Inverkeithing is located within a better area but this property is only a flat. The Committee was also aware of a three bedroom flat available to rent in Hope Street, Inverkeithing for £495 per month and a three bedroom terraced house available to rent in Kinnell Road, Inverkeithing for £625 per month. The Committee note that the Tenant has provided evidence from the Zoopla Website suggesting that the rental value is £383 per calendar month. The Committee however do not consider this to be reliable evidence as there is no detail of how this has been calculated and it is not clear whether this relates to market rent or sale prices. The Tenant also referred to council house rents but these do not reflect market rent. The Committee also consider it relevant that the local authority housing allowance, at the time of the application, was £550 per calendar month.

In the whole circumstances, given that the evidence available would suggest that similar properties in the area are being let for a similar rent, the Committee cannot find that the rent payable under this tenancy is significantly higher than the rent the Landlord might reasonably expect to be able to obtain. The Committee accordingly had no choice but to make a non-determination in this case.

Signed ..... **J Lea** ..... Date..... 11/11/11  
Chairperson