



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/AB32/718	11 November 2009	Tenant

ADDRESS OF PREMISES

Newfield Farmhouse, Echt, Skene, AB32 6XJ

TENANT

Mr Davidson

NAME AND ADDRESS OF LANDLORD AGENT

The Dickinson Trust Ltd
For Barmekin Trust
Estates Office
Dunecht
AB32 7AW

DESCRIPTION OF PREMISES

Detached 1 and a half storey Cottage C.1900 with single glazing and no fixed heating, comprising 2 public rooms, 2 bedrooms, kitchen and bathroom.

SERVICES PROVIDED

Private water supply

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

E Miller LLB (Hons) Dip LP NP
C Hepburn ARICS
L Robertson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ £4000.20 p.a.	9 February 2010	9 February 2010

inclusive of services <5%
(non-variable)

E Miller

Chairman of Private Rented Housing Committee

23/2/2010

Date

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

INSPECTION – 9 February 2010

**PROPERTY - Newfield Farmhouse, Echt, Skene,
Aberdeenshire, AB32 6XJ ("the Property")**

INTRODUCTION

1. The Committee comprised Mr E K Miller (Chairman), Mr C Hepburn (Surveyor Member) and Mrs L Robertson (Housing Member).
2. The landlord is The Dickinson Trust Limited, Trustee for the Barmekin Estates Office, Echt ("the Landlord") represented by Ms Emily Cruickshank, Assistant Estate Factor.
3. The tenant is Mr William Davidson residing at Newfield Farmhouse, Echt, Skene, Aberdeenshire ("the Tenant") represented by Mr Matthew O'Neill of Messrs Aberdeen Considine, Solicitors, 8/9 Bon Accord Crescent, Aberdeen, AB11 6DN. This reference to the Private Rented Housing Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 in respect of the Property arises from dissatisfaction on the part of the Tenant.
4. The previous rent was £3,360 per annum. The Landlord applied for a rent of £4,200 per annum. The rent determined by the Rent Officer was £4,000.20 per annum.

DESCRIPTION OF THE PROPERTY

5. On the morning of 9 February 2010, the Committee, accompanied by the Clerk to the Committee Mr Iain Maclean, carried out an inspection of the Property. The Property is situated in a rural setting off a private access track near the village of Echt. The Property has pleasant open views and

a good sized garden of rough grass surrounding it on all sides. The nearest shops and facilities are in the village of Echt approximately 2 miles away, with a fuller range of facilities available in Westhill approximately 7 miles away.

6. The Property is a detached one and a half storey cottage circa 1900 with a slate roof. The accommodation comprises a kitchen contained within a single storey extension to the rear of the Property with two public rooms, two bedrooms and a bathroom. Externally there were a number of sheds and outhouses which the Tenant has the use of. The exterior and roof of the Property were in reasonable condition for a Property of that age. The gutters were in fair condition. The windows of the Property were all single glazed and whilst showing some signs of aging, were in reasonable condition.
7. The kitchen at the Property was small and narrow with no room for any dining facility. Generally it was in good condition. The Tenant had laid floor tiles within the kitchen and decorated it well. There was no form of heating within the kitchen.

The living room had a window overlooking the front of the Property and was of good size. There was a coal fire within the room but no other form of heating. The Property had been well decorated and furnished by the Tenant.

The last room on the ground floor was a second lounge, which the Tenant used rarely. There was no form of heating within this. It had windows overlooking the front and side of the property and had been well decorated and furnished by the Tenant.

The bathroom on the ground floor was dated but serviceable. The Tenant had tiled around the bath area.

Upstairs there were two bedrooms. These were both of a reasonable size and had been well decorated and furnished by the Tenant. There was no form of heating in either bedroom. There were a number of small storage cupboards throughout the Property.

Overall it was clear that the Property had been in basic condition when taken over by the Tenant at the start of the tenancy. The Property had been well maintained and decorated by the Tenant.

DOCUMENTATION

8. The Committee considered all documents provided by the Landlord and the Tenants and also details of recently registered rent decisions in the area provided by the Landlords at the Hearing itself. All documentation provided was taken account of at the Hearing.

HEARING

9. Both parties had requested a Hearing and this took place at the Old Schoolhouse, Westhill, Aberdeen. Ms Cruickshank, for the Landlord, indicated that although they had sought a rental of £4,200 per annum they were satisfied with the proposed rent of £4,000.20. She did not think that a lower rent could be justified. She drew the Committee's attention to other regulated rents on the Echt Estate:-
 - Meanecht, Cottar House No.2 was a semi-detached two-storey house with four apartments, kitchen and bathroom and oil central heating at rent of £4,200 per annum.
 - Monecht Cottage No.5 was a terraced one and a half storey house with four apartments and oil central heating at an annual rent of £4,560.
 - Easter Echt Lodge was a single storey house with four apartments, kitchen and bathroom with annual rent of £4,380.

- Barmekin Cottage was a detached one and a half storey stone house with four apartments, kitchen and bathroom and a long access track at an annual rent of £3,960 per annum.
- Lochhead Cottage was a detached one and a half storey stone house with four apartments, kitchen and bathroom and oil central heating situated next to a busy road.

These properties, she advised, were all roughly similar and demonstrated that the rent being sought was reasonable in the circumstances. She accepted that the Tenant had maintained the Property well and looked after it and had given the Landlord no cause for concern. When asked about the fact the Property had single glazing and virtually no form of heating, she accepted that this would put some people off. If ever they were re-letting this Property, however, she did not anticipate that they would carry out any improvements as she felt the Property would re-let easily enough on its own in its current condition.

Mr O'Neill, for the Tenant submitted that a lower increase should be imposed on the Tenant than that decided by the Rent Officer. He highlighted a number of issues with the Property which he felt would have the effect of lowering the rent that should be charged. There was no central heating in the property and no double-glazing. This resulted in ongoing condensation problems and meant that the Property was very cold, particularly in the winter. The original kitchen facilities were of a basic nature as were those in the bathroom. Although the Property was well decorated this had all been done by the Tenant. The access road leading to the Property was very poor and heavily rutted. It suffered from water run off which also left it very muddy. Although outbuildings were included within the lease of the Property these were in very poor condition, had various leaks and had had to be repaired by the Tenant at various points to keep them standing. The Tenant's agent was of the view that the Property should be valued as a shell as this was effectively what the Tenant had inherited. If it was done on this basis then the rental

initially sought by the Landlord and also that assessed by the Rent Officer was too high.

THE DECISION

10. 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 quantity, quality and condition of the furniture"*. Disrepair or defects attributable to the tenants should be disregarded, as should any improvements made by the tenants, otherwise than in pursuance of the terms of the tenancy (Section 48(3)). Improvements by the landlord are taken into account. In reaching its determination, the Committee complied with its duty as set out above.

11. The Committee considered carefully all the evidence presented, together with the observations made by the Committee members at the 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 (a) determining a fair rent by having regard to registered rents of comparable houses in the area, (b) taking market rents and then discounting for any scarcity element and making any appropriate disregards as required by Section 48(3), or (c) calculating the appropriate return based on the capital value of the property, taking into account the element of scarcity. None of these methods is regarded as being the primary method, and the method chosen by the Committee will depend in each case upon the evidence available.

12. Using its knowledge and experience, and having regard to other properties available for let in the area both highlighted by the parties and also from the Committee's own investigations, the Committee considered that a market rent for a double glazed, well decorated, centrally heated, unfurnished, four apartment property of a type and in the locality of the present property, would be around £7,800 per annum. However the Committee were of the view that the lack of heating in the Property other than a single coal fire would have a significant detrimental effect on the rental level achievable. Further negative effects on the rental level achievable would be the fact that Property was single glazed, that the access track and garden area were in poor condition and that if one disregarded the extensive redecoration works carried out by the Tenant the Property would be in a much poorer condition. The Committee considered that for the Property a maximum of £4,000 per annum (inclusive of services) would be achievable. This was in line with the rent assessed by the Rent Officer and accordingly the Committee were of the view that the Rent Officer's decision was correct. The Committee also took into account the evidence of the other regulated rents provided by the Landlord and in particular that of Barmekin Cottage, which was comparable. The Committee were satisfied that if the method of assessing the fair rent used was a comparison with other regulated rents that the figure of £4,000.20 per annum assessed by the Rent Officer was also correct on this method. The Committee did not assess a fair rent based on the capital value of the property there being sufficient evidence of other comparable regulated rents and market rents.
13. The Committee then proceeded to consider whether any further deductions required to be made in terms of Section 48(2) (the factor commonly referred to as "scarcity") of the 1984 Act. The concept of scarcity is an essential feature of the fair rent scheme under the Rent (Scotland) Act 1984. The principle behind the inclusion of this section was that tenants *in a situation of scarcity of supply* (in other words, where there are more prospective tenants than available houses) should be protected from market forces. It is this factor that distinguishes a fair

rent under the 1984 Act from an open market rent. Section 48(2) requires that a neutral market with no scarcity of houses be assumed. In that situation, prospective tenants can be assumed to be willing to pay only what the property is worth, with no additional premium being paid in order to secure a property that is difficult to come by. If that situation does not exist, and there *is* a shortage of houses, (thus artificially pushing up rents) then Section 48(2) requires that the tenants be protected from the financial implications of that.

14. The Committee considered whether any discount should be made for scarcity in this case. Whilst the Committee heard that the rental market in the area was buoyant and properties did not normally take too long to rent they were satisfied that a property of the type and in the locality of the Property could be obtained for a rent without undue difficulty. Accordingly they were satisfied that in Aberdeenshire 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 no deduction required to be made in relation to scarcity for this type of property at this point in time.
15. In Section 49 of the Rent (Scotland) Act 1984, it is declared that the amount to be registered shall include any sums payable by the tenants for services. In this case, drainage services to the value of £255.20 are included with the rental charged
16. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the Property, inclusive of services, was £4,000.20 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.

17. It should be noted that any increase in rent imposed in consequence of this decision must be applied in accordance with the provisions of Section 33 of the Rent (Scotland) Act 1984 and The Limits on Rent Increases (Scotland) Order 1989 No. 2469 (s168). These provisions specify the limits for the phasing in of significant increases.
18. The effective date is 9 February 2010.

Signed: **E Miller** (Chairman)

Date: 23/2/2010