



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/EH3/609	27 November 2007	Tenant

ADDRESS OF PREMISES

29a Dundas Street, Edinburgh, EH3 6QQ

TENANT

Mr IGM Ramsay

NAME AND ADDRESS OF LANDLORD

Trout Anglers Club

AGENT

Ryden Lettings
110 Hanover Street
Edinburgh
EH2 1DR

DESCRIPTION OF PREMISES

Main door basement flat in traditional four storey and basement tenement circa 1800 with gas central heating comprising entrance hall and dining area, sitting room, two bedrooms, dark kitchen, bathroom and elevated back garden.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
PROFESSIONAL MEMBER
LAYMEMBER

Mrs A McCamley BA LLB NP
Mr D Marshall FRICS
Ms L Nicholson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 7500.00 p.a.	6 February 2008	6 February 2008

A McCamley

Chairman of Private Rented Housing Committee

7/2/08

Date

RENT ASSESSMENT COMMITTEE

STATEMENT OF REASONS

HELD ON : 6th FEBRUARY 2008

PROPERTY : Basement Flat 29A Dundas Street, Edinburgh
(hereinafter referred to as "the Flat")

1.0 Introduction

The Committee comprised Mrs. A. McCamley (Chairman), Mr. D. Marshall (Surveyor) and Mrs. Liz Nicholson (Lay Member).

The Landlord is the Trout Anglers Club per Ryden Letting Limited and the Tenant is Mr. I.G.M. Ramsay. This reference to the Rent Assessment Committee for determination of a fair rent under the Rent (Scotland) Act 1984 is in respect of a basement flat known as 29A Dundas Street, Edinburgh and arises from dissatisfaction on the part of the Tenant.

By way of background the previous registered rent was £4,500 per annum. The Landlord sought an increase in rent to the sum of £7,500. The Rent Officer registered a rent of £7,500 with effect from 6th November 2007. Thereafter the Tenant referred the determination to the Rent Assessment Committee.

2.0 Inspection

The flat was inspected by the Committee on 6th February 2008 in the presence of the Tenant and the Landlords' agent Mr. Adair.

- (1) The situation:- The flat is located in a well established and perennially fashionable area of the New Town of Edinburgh. Surrounding properties are generally of a similar age, type and character and the area is mixed residential commercial. There are a number of galleries and boutique style shops close by. Dundas Street is a busy main thoroughfare there are many small local shops and there is easy access to cinemas, theatres, schools, colleges and public open space. Public transport links into the centre of the city and throughout Edinburgh are excellent.

- (2) The Exterior:- The flat comprises a self-contained basement/garden flat in a purpose built four storey and basement level mid terraced Georgian tenement block. The flat has its own external stair and entrance door. There is a paved yard to the front which is in good condition. On date of inspection the property was wind and watertight and the structural condition of the building as a whole was in keeping with its age and general location.

(3) The Rear Garden:- The flat benefits from an entitlement to a large square elevated rear garden which is accessed by patio style door from the main bedroom. The garden has been attractively landscaped and maintained by the Tenant. The back door of the ground floor premises which currently serves as a fire exit for those premises opens on to a short flight of stone steps which steps lead down directly into Mr. Ramsay's rear garden. The ground floor premises are occupied by the Trout Anglers Association.

(4) The Interior:- The property has three main rooms namely two bedrooms and a sitting room. There is an internal kitchen and a further internal area which could be described as a dining hall and indeed the Tenant Mr. Ramsay confirmed it had been used as such although it now acted as a study area. There is a bathroom with white bath, hand basin and W.C. The property benefits from a large airing cupboard which houses the hot water tank.

The bedroom to the front of the flat is large enough to hold a double bed with associated bedroom furniture. Despite facing Dundas Street, which is a busy road, there was no traffic noise audible at the time of our visit.

The rear bedroom is large and light with ample room for a double bed and associated bedroom furniture. The large patio window/door leads onto a paved footpath which ascends to the elevated rear garden.

The sitting room is to the rear of the flat. This is a large room with many original features including a fireplace.

There is an internal kitchen with kitchen units. "White goods" belong to the Tenant.

The flat is heated by a gas fired central heating system. The boiler was replaced approximately one year ago. The heating is provided by the Landlord.

The flat appears cluttered and has not been upgraded in terms of fittings, finishings and décor for many years. It should be noted that internal decoration is the responsibility of the Tenant.

3.0 Documentation

The Committee considered the undernoted documents:-

RRI Application

Landlord Representations

Tenant Objection Letter

Tenant Representation

and All other papers contained within the Case File.

4.0 The Hearing

A Hearing was held at the request of both parties. For the convenience of all parties and by courtesy of Mr. Ramsay the Hearing was held in the flat immediately after the inspection. There are no jurisdictional matters before the Committee. As the reference to the Committee was initiated by the Tenant Mr. Ramsay was asked to make the first address to the Committee.

Mr. Ramsay confirmed his Objection to the rent increase lay in a perceived violation of his privacy. It appears smokers from the ground floor premises used by the Trout Anglers Club stand on the steps of the Fire Exit to have their cigarettes. Mr. Ramsay is of the opinion that the smokers are able to see into his back bedroom window when they stand on these steps. As Mrs. Ramsay is confined to bed through illness this infringement of privacy is of great concern. The smokers started to use the steps at the commencement of the smoking ban in Scotland. Mr. Ramsay contends it is unfair his rent should increase while his privacy has decreased.

For the Landlord Mr. Adair referred Committee to his written submissions. He asked Committee to hold that there was no significant scarcity in the marketplace and set the fair rent at the market rent less £500 per annum as "compensation" for any intrusion of privacy by smokers from the Trout Anglers Club or alternatively to have regard to the capital value of the flat and assess what would be a fair return to the Landlord on his capital asset.

Committee thanked parties for their helpful submission and closed the Hearing.

5.0 The Decision

The Rent Assessment Committee accept the determination of the fair rent set by the Rent Officer.

6.0 Reasons

The duty of 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 properties 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 to the quantity, quality and condition

of the furniture. The Committee are required to assume that the number of persons seeking to become tenants of similar dwellinghouses 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 dwellinghouses in the locality which are available for letting on such terms. Disrepair or defects attributable to the Tenant should be disregarded as should any improvements made by the Tenant otherwise in pursuance of the terms of the tenancy. In this case there were no defects and no furniture was provided.

In reaching its determination the Committee complied with its duty as set out above.

The Committee considered carefully all the written evidence before it together with the observations made by Committee Members at the inspection and points raised by the Landlord and the Tenant at the Hearing. In particular the Committee considered carefully which of the alternative methods of ascertaining a fair rent was most appropriate in this case. It is settled law that the three main guidelines are:-

- (a) To compare registered rents for similar protected tenancy properties.
- (b) To ascertain what would be a fair return to the Landlord on the capital value of his property or
- (c) To have regard to free market rents for similar properties.

The Committee first considered whether it would be appropriate to compare registered rents for other similar protected tenancy properties. Unfortunately the Clerk to the Committee had been unable to provide any comparable registered rents which would be relevant in our deliberations. We were advised that there were no recent relevant comparables to produce to us.

Next the Committee considered whether or not it would be appropriate to proceed using the capital value method. The Landlord has produced a recent valuation of the flat which stated it had a capital value of £230,000. While Committee noted this figure given the present volatility and unpredictability in the housing market we were not attracted by this method of settling a fair rent.

Committee resolved to proceed by having regard to the market rents for similar properties. The Committee is aware, through its own market knowledge reinforced by the advice of its professional Member, who was able to produce a list of current letting from the local press, taken together with the information on properties currently available for let provided by the Landlord that market rent for two bedroom flats of the same size in the same locality of the reference property are around £700 per calendar month fully furnished with all modern conveniences. The reference property benefits from a lovely garden. This is most unusual in the centre of the Town. However having regard to all factors and exercising our skill,

knowledge and experience we are content to set a market rent at £700 per calendar month being £8,400 per annum.

Having determined the market rent the Committee next considered whether there should be any scarcity deduction in terms of Section 48(2) of the 1984 Act. Again applying its skill, knowledge and experience and taking advice from its professional Member the Committee takes the view that there is no substantial scarcity of properties of this type and there is fair equilibrium in the market. Committee is aware that the property publications contain large sections offering two bedroom flats for let within central Edinburgh and the New Town at consistent rent levels. Local newspapers also contain property sections which carry substantial numbers of residential properties for letting in Edinburgh. We are also aware of a number of alternative opportunities for advertising letting properties for example through letting agencies and through the internet. We are quite satisfied that there is no scarcity.

Having determined the market rent at £8,400 per annum we then made an adjustment to reflect the general improvements which would be required to achieve this market rent. The Committee again applied its skill, knowledge and experience and took advice from its professional Member. We are satisfied that a fair figure to defray from the market rent is £10,000 at 4% per annum (£400 per annum) being equivalent to defraying the cost over

25 years. We also applied the Landlords' "smokers allowance" of £500 per annum. Thus the market rent after downward adjustment as detailed above is the fair rent in this case. The decision of the Rent Officer is confirmed.

Parties should be aware that in terms of Section 46(3) of the 1984 Act either party will be at liberty to seek a re-determination of this figure before the expiry of the three years if any of the conditions in that sub-section are satisfied.

A McCamley

Chairman