



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/EH12/710	18 August 2009	Tenant

ADDRESS OF PREMISES

3F1, 36 Roseburn Street, Edinburgh, EH12 5PN

TENANT

Mr T Cook

NAME AND ADDRESS OF LANDLORD

Lothian Homes Trust

AGENT

James Gibb
4 Atholl Place
Edinburgh
EH3 8HT

DESCRIPTION OF PREMISES

Traditional tenement flat comprising kitchen/living room, bedroom with boxroom off, bathroom and communal drying green.

Internal floor area is approx 46.4 sq. m.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN

SURVEYOR

HOUSING PANEL MEMBER

A McCamley BA LLB NP

D Marshall FRICS

J Blackwood

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3,900 p.a.	9 October 2009	9 October 2009

A McCamley

Chairman of Private Rented Housing Committee

16th October 2009

Date

STATEMENT OF REASONS
PRIVATE RENTED HOUSING COMMITTEE

INSPECTION : 9th OCTOBER 2009

PROPERTY : 3F1, 36 Roseburn Street, Edinburgh

Introduction

1. The Committee comprised Mrs. Anne McCamley, Chairman, Mr. D. Marshall, Surveyor and Mr. J. Blackwood, Housing Member
2. The Landlords are Lothian Homes Trust. The Tenant is Mr. Cook. 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 top floor flat known as number 3F1, 36 Roseburn Street, Edinburgh arises from dissatisfaction on the part of the Tenant
3. The previous rent was £2,600.00 per annum. The Landlord applied for a rent of £3,950.00 per annum. The rent determined by the Rent Officer was £3,120.00 per annum.

Description of Property

4. On the morning of the 9th of October 2009 the Committee carried out an internal and external inspection of the property. The property is a top floor flat forming part of an Edinburgh tenement. There is a pleasant communal drying area to the rear. No services are provided by the Landlord. The stair does not have a door entry system and is generally in need of upgrading. The flat is located in an area close to the City Centre and near to shops, schools and public transport. There are commercial and industrial units nearby but there are also new residential developments.

5. The flat comprises a kitchen/living room and bedroom with internal box room off it. There is also a bathroom with a w.c., wash hand basin and bath. It is a traditional room and kitchen tenement flat.
6. The property does not appear to have been recently re-wired but the electrical system appears adequate. The windows are the original sash and case style. There is no central heating system. All heating appliances are supplied by the Tenant. The kitchen appliances are the Tenant's own. All furniture and floor coverings have been provided by the Tenant.
7. The Landlord was not represented at the inspection.
8. As neither party had requested a Hearing no Hearing took place.

The Decision

9. 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 Tenant should be disregarded as should any improvements made by the Tenant, otherwise than in pursuance of the terms of the tenancy. Improvements by the Landlord are taken into account. In reaching its determination, the Committee applied with its duty as set out above.

10. The Committee considered carefully all the evidence presented, together with the observations made by Committee Members at the internal and external 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 any scarcity element and making
any appropriate disregard 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. In this case neither party produced any evidence as to capital values, market rents or registered rents of comparable properties.

Mindful of the observations by the Lord President in *Western Heritable Investment Company Limited v. Hunter* (2004) the Committee was aware of the need to proceed on the basis of the best available evidence using other available evidence as a check where possible. In this case, in the absence of any evidence from the parties, the Committee was obliged to rely on its own knowledge and experience of the rents passing and being asked in the local market. We did not have available to us any up to date evidence as to registered rents of comparable regulated tenancies. We proceeded to consider the case using the market rent less any discount for scarcity approach.

11. Using its knowledge and experience and having regard to other properties available for let in the area the Committee considered that a market rent for a double glazed and centrally heated unfurnished room and kitchen of the type and in the locality of the present property would be a minimum of £475.00 per month. We arrived at this figure after researching the rental market through newspaper advertisements , the internet , and having made enquiries with letting agents. However, the subject property must be valued as having no central heating with no kitchen and no double glazing. The bathroom must also be valued as functional but not modern in style. We also noted floor coverings would require to be provided by the Landlord. We considered a total of £150.00 per month should be deducted from the open market figure to take account of these factors leaving a net figure of £325.00 per month.
12. We then proceed 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 but the Committee was satisfied that in the area of Edinburgh 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 there is an equilibrium in the market at the moment.
13. Having taken all relevant factors into account, the Committee determined that a fair rent for the property is £3,900.00 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.
14. 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(S.168). These provisions specify the limits for the phasing in of significant increases.

15. The effective date is the 9th of October 2009.

A McCamley

Chairman ~