



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/EH8/727	25 January 2010	Landlord

ADDRESS OF PREMISES

1F1, 35 Milton Street, Edinburgh, EH8 8HB,

TENANT

Mrs Pullen

NAME AND ADDRESS OF LANDLORD

Mrs J McGregor

AGENT

James Gibb Property Management
4 Atholl Place
Edinburgh
EH3 8HT

DESCRIPTION OF PREMISES

First floor flat in traditional tenement C.1900 comprising sitting room, bedroom, large internal boxroom, kitchen and bathroom. Shared drying green.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

A McCamley BA LLB NP
D Marshall FRICS
C Anderson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4,040.00 p.a.	29 March 2010	29 march 2010

A McCamley

Chairman of Private Rented Housing Committee

29th March 2010

Date

STATEMENT OF REASONS

PRIVATE RENTED HOUSING COMMITTEE

INSPECTION : 29th MARCH 2010

PROPERTY : 35 Milton Street, Edinburgh

Introduction

1. The Committee comprised Mrs. Anne McCamley, Chairman, Mr. D. Marshall, Surveyor and Mrs. C. Anderson (Housing Member).
2. The Landlord is Mrs. J. McGregor represented by James Gibb Property Management Limited. The Tenant is Mrs. Joyce Pullen. This reference for the Determination of a fair rent under the Rent (Scotland) Act 1984 is in respect of a first floor flat at 35 Milton Street, Edinburgh and arises from dissatisfaction on the part of the Landlord.
3. The previous annual rent was £2,950.00 per annum. The Landlord applied for a rent of £4,100.00 per annum. The rent determined by the Rent Officer was £3,600.00 per annum.

Inspection

4. The property was inspected by the Committee on the morning of the 29th of March 2010 in the presence of the Tenant. Although the Landlord had been invited to the inspection he did not attend. Neither party requested a Hearing.
5. The flat is situated in a mixed residential area in the City of Edinburgh at the foot of Holyrood Park. Milton Street is a cul-de-sac although it is busy with parked cars. The flat is within walking distance of a bus stop and there is a corner shop nearby.

6. The reference property is on the first floor of a traditional tenement block. There is no front garden. The rear garden is shared between the twelve flats in the stair and abuts the wall of Holyrood Park.
7. The flat comprises a large sitting room with views on to the park, double bedroom, bathroom, internal kitchen and large internal box room which currently accommodates a double bed. The kitchen and bathroom have been fitted with very basic units which are now in need of some renovation. The internal kitchen is of a galley style. The windows are single glazed sash and case and difficult to operate.
8. Overall the property is in need of some general renovation. The bathroom and kitchen are largely unimproved and the windows are ill fitting. The wiring is dated and would be unlikely to meet current standards.

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 or market rents. The Committee administration provided evidence of registered rents of two properties deemed to be comparable. The Committee did not consider the two registered rent properties to be useful as comparators as both were in a very poor condition (one being described as deplorable) .

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, and, particularly 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 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 for let in the area the Committee considered that a market rent for a double glazed centrally heated unfurnished two roomed flat with large box room and internal kitchen in or around the locality of the present property would be around £420.00 per month. We arrived at this figure after researching the rental market through newspaper advertisements, the internet and having made enquiries with letting agents. To achieve this rental the reference property would require to be brought up to a higher standard than that at which it is currently let. The Committee estimated the likely cost of replacing the bathroom and kitchen fittings, renewing the windows, providing floor coverings and general decoration would be around £10,000.00. That is made up as follows - kitchen £3,000.00, bathroom £4,000.00, floor coverings £1,500.00, windows £1,000.00 and decoration £500.00. We estimated the cost should be written down over a period of ten years (£1,000.00 per annum) and deducted from the market rent to produce a fair rent.
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 £4.040.00 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. The effective date is the 29th of March 2010.

A McCamley

Chairman PRMP