



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/EH8/782	20 September 2010	Landlord

ADDRESS OF PREMISES

4F1, 2 Boroughloch Square, Edinburgh, EH8 9NJ

TENANT

Mr Springate

NAME AND ADDRESS OF LANDLORD

Ardnastang Estates

AGENT

James Gibb Property Management
4 Atholl Place
Edinburgh
EH3 8HT

DESCRIPTION OF PREMISES

Fourth floor tenement flat circa 1890 comprising living room, bedroom, boxroom, dark kitchen and dark shower room with w.c.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

Mrs A McCamley BA LLB NP
Mr D Marshall FRICS
Mr T Keenan

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4205.00 p.a. an	1 February 2011	1 February 2011

A McCamley

Chairman of Private Rented Housing Committee

4/2/2011

Date

STATEMENT OF REASONS

PRIVATE RENTED HOUSING COMMITTEE

INSPECTION : 1st FEBRUARY 2011

PROPERTY : 4F1 2 Boroughloch Square, Edinburgh

Introduction

1. The Committee comprised Mrs. Anne McCamley, Chairman, Mr. D. Marshall, Surveyor and Mr. Tom Keenan (Housing Member).
2. The Landlord is Ardnastang Estates Limited. The Tenant is Mr. G. Springate. This reference for a Determination of a fair rent under the Rent (Scotland) Act 1984 is in respect of a top floor flat at 2 Boroughloch Square, Edinburgh and arises from dissatisfaction on the part of the Landlord.
3. The previous rent was £3,200.00 per annum. The Landlord applied for a rental figure of £6,500.00 per annum. The rent determined by the Rent Officer was £4,000.00 per annum.

Inspection

4. The property was inspected by the Committee on the morning of the 1st of February 2011 in the presence of the Tenant. Although the Landlord had been invited to the inspection he did not attend. A Hearing took place immediately after the inspection at Scott House, 10 South St. Andrew Street, Edinburgh.
5. The flat is situated in a mixed residential area in the City of Edinburgh at the east end of The Meadows. Boroughloch Square backs on to The Meadows and the sitting room of the property enjoys fine views over the parkland. The front of the property is now a car park. The flat is within walking distance of all amenities in the heart of a lively multi-cultural student district.

6. The reference property is on the top floor of a four storey tenement block. The drying green associated with the block has now been turned into a car park which is extremely congested. There is no outdoor drying space.
7. The flat comprises a small sitting room with views on to the park, a double bedroom a shower room, an internal kitchen and a large internal box room which currently holds a single bed. The kitchen and shower room have been fitted with basic units. The windows are single glazed and are not draught proof.
8. The property does not benefit from central heating, the shower room is very small. Likewise the box room is both dark and compact.
9. The property is on the fourth storey of the block of flats. There are approximately 80 steps from the ground floor to the reference property.

The Hearing

10. Although both parties had been invited to attend the Hearing at Scott House only the Tenant attended. The Tenant submitted the rent applied for was too high. He himself keeps the property in a good state of repair. The floor coverings are his as are the white goods in the kitchen. There is very little storage space and no drying green. The Landlord is slow to respond to requests and complaints.

The Decision

11. 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.

12. 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. 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 one is considerably larger and the other is not in the same area.

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 proceeded to consider the case using the market rent less any discount for scarcity approach.

13. 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, internal kitchen and shower room in and around the locality of the present property would be around £5,700.00 per annum. 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 noted there was very little natural daylight in the rooms. There are no laundry facilities, there is a lack of storage and although serviceable the fitments in the kitchen and shower room are now very dated. Of most significance is the extent of the climb up to the reference property. Committee Members believe there are somewhere between 70 or 80 steps from the main door to the flat. We believe this would deter a significant portion of the renting community. Having regard to the foregoing matters we felt that a deduction of 15% in the annual rent would be appropriate. Thus the annual figure would decrease to £4,845.00. Further, to bring the property up to an appropriate standard the Committee felt it would be necessary to install central heating, double glazing and replace floor coverings. We estimated £4,000.00 written down over 10 years for heating; £1,800.00 written down over 20 years for double glazing and £1,500.00 written down over 10 years for floor coverings. Thus the total annual deduction is £640.00.

We assessed the market rent at £5,700.00 per annum. Having made the various deductions as described above the figure of £4,205.00 is determined as a fair rent.

14. We 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 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.

15. Having taken all relevant factors into account, the Committee determined that a fair rent for the property is £4,205.00 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 1st of February 2011.

A McCamley

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