



PRIVATE RENTED HOUSING PANEL

HOUSING (SCOTLAND) ACT 1988, SECTION 25(1)

**REGISTER OF RENTS DETERMINED UNDER STATUTORY
ASSURED TENANCIES**

REFERENCE NO: APPLICATION RECEIVED

RAC/DD1/852 28 August 2012

ADDRESS OF PREMISES

Flat R/2/1, 48 Union Street, Dundee DD1 4BE

TENANT

Mr David Burns

NAME AND ADDRESS OF LANDLORD

Kusum International Ltd
58 Bell Street,
Dundee
DD1 1HF

AGENT

Lickley Proctor Lettings,
58 Bell Street,
Dundee
DD1 1HF

RENTAL PERIOD

Monthly

DATE TENANCY COMMENCED

March 1999

DESCRIPTION OF PREMISES

Second floor tenement flat above commercial property, circa 1900, unimproved comprising lounge, bedroom, living kitchen, bathroom and boxroom

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

D Bartos, LLB(Hons), FCI Arb
D Godfrey ARICS
J Wolstencroft

PRESENT RENT

£ 4 230 p.a.

RENT DETERMINED

£ 4 230 p.a.

DATE CONSIDERED

18 October 2012

EFFECTIVE DATE

28 February 2013

D Bartos

Chairman of Private Rented Housing Committee

23rd October 2012

Date



Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under section 25 (1) of the Housing (Scotland) Act 1988

Case Reference Number: RAC/DD1/A96

Re Property at : R/2/1, 48 Union Street, Dundee ("the Property")

The Parties:

Mr David Burns residing at 48 Union Street, Dundee ("the Tenant")

Kusum International Limited, 58 Bell Street, Dundee DD1 1HF ("the Landlord")

Background

This is a reference by the Tenant of the Landlord's notice seeking an increase of rent for the Property. Through his reference the Tenant seeks a determination of rent from the Private Rented Housing Committee.

The tenancy is an assured tenancy. On or about 7 August 2012 the Landlord served on the Tenant an AT2 Notice under section 24 of the Housing (Scotland) Act 1988 seeking an increase in rental to £ 4 800 per annum with effect from 28 February 2013. By way of form AT4 dated 23 August 2012 the Tenant referred the Landlord's notice to the Private Rented Housing Committee for a determination of rent under section 25 of the said Act.

Inspection

The Committee, comprising Mr David Bartos (Chairman and Legal Member), Mr David Godfrey (Surveyor Member) and Mr John Wolstencroft (Housing Member) carried out an inspection of the Property on 18 October 2012 accompanied by the Clerk, Mr Stuart McLagan. The Tenant was present throughout the inspection. The Landlord was not present and neither was its agents.

Hearing

No hearing took place as neither party had requested one. In addition both parties were given a further opportunity to attend a hearing at the Douglas Community Centre, Balmoral Avenue, Dundee on 18 October 2012 at 11 a.m., but neither party took this opportunity.

Description

The Property comprises a second floor flat within a traditional 19th or early 20th century tenement property in the City Centre with retail properties on the ground floor. All of the rooms are accessed from a central hallway. The Property has a lounge, occupying the corner of the tenement with windows in the corner, and a press cupboard. It has a bedroom, and a small second bedroom/box room which is currently used for storage. Upon entry into the hallway from the front door, immediately to the right of the front door there is a very small bathroom. There is a fitted metal, painted bath, which is very small and which appears to date from the construction of the flat. The Tenant had painted the bath. The wash hand basin is equally dated and has a waste pipe which discharges into the bath. The toilet appears to be original but for the plastic overhead cistern. The kitchen is basic. It is essentially a room with a sink a few basic units below it and a gas connection for a cooker. The tenant uses his own moveable cooker. The sink at the window is on top of a small row of units which appear to date from the 1960s or 1970s. It is understood from the earlier Statement of Reasons of a previous Committee dated 17 November 2010 that the sink and units had been installed by the Tenant. The bathroom has clean wallpaper and paintwork which has been carried out by the Tenant. The kitchen and boxroom have been repainted by the Landlord following flooding but to the knowledge of the Committee's surveyor member, this was before the inspection of the most recent previous Committee on 5 November 2010 notwithstanding the date of the invoice of 15 November 2010 for paint and papering work from Richard McCormack submitted by the Landlord.

The Property has old sash and case single glazed windows. In the lounge one of the sash cords was snapped rendering the window inoperable. In the boxroom the Tenant had been obliged to put in a draft excluder at the bottom of the window to prevent draughts.

There is no heating within the Property. There are original open fireplaces in the main bedroom, the lounge and the kitchen. These are not used by the Tenant. The Tenant heats the rooms with electric heaters. Hot water is supplied from a hot water tank with an immersion heater. This had been put in by the Tenant. The Property has a burglar alarm system installed by the Tenant. It has a door entry system which has a defective communication system.

Documentation

The Committee had the following documentation before them : -

1. Form AT2 completed by the Landlord
2. Form AT4 completed by the Tenant including a letter of objection received by the PRHP on 11 September 2012
3. Written Representations by the Landlord dated 5 September 2012
4. Copy invoice from Richard McCormack, painter and decorator dated 15 November 2010

5. Statement of Decision of the Private Rented Housing Committee dated 17 November 2010

Discussion

The task for the Committee under section 25 of the 1988 Act was to determine the rent at which (disregarding certain matters including any improvements carried out by the tenant or a predecessor of his unless carried out in pursuance of the terms of the tenancy) the Property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy.

The Committee are required to carry out the determination in accordance with the matters set out in section 25(1) of the 1988 Act.

The Landlord did not provide any evidence to the Committee to the effect that the general level of rents for similar premises in the city centre had increased since November 2010 when the last Committee had determined an annual rent of £ 4 230 per annum or £ 352. 50 per month. Indeed the Landlord did not provide the Committee with evidence of comparable lets at all. The Tenant did not provide the Committee with any evidence on these matters.

Using their knowledge and experience the Committee considered that there had not been any increase in rents overall since November 2011. Such increased demand that there had been since then had been offset by the greater supply of properties coming onto the market accompanied by an increase in expectations of potential tenants. Given the size of the small boxroom the Committee took the view that the Property fell to be considered as effectively a one and a half bedroom flat or a one bedroom flat with good storage in a city centre location. Against this background the Committee assessed that fully modernised the Property could reasonably be expected to be let on an assured tenancy for £ 475 per month or £ 5 700 per annum.

However the Committee were clear that a reasonable tenant would not pay that level of rent for the Property. Firstly the Tenant's improvements had to be disregarded. These included the hot water tank and immersion heater and the sink and units in the kitchen, and the painting of the bath. Secondly the old-fashioned nature of the amenities within the Property would be significantly off-putting to most prospective tenants. In effect the Property was without a kitchen. The bathroom was very old-fashioned in its format and whilst the Tenant has no difficulty with it, many tenants would be put off taking on the Property with it. The lack of heating and double-glazing would have a similar effect. The decor in the lounge was old-fashioned.

The let was unfurnished and no sums were payable by the Tenant on account of the use of furniture or for services.

The Committee were aware that the rent had not been increased since 2009. However, applying the statutory test in section 25 the Committee were unable to see any basis for a reasonable expectation that an assured let would achieve more than the current rent of £ 352. 50 per month.

Decision

Taking account of all the relevant circumstances the Committee determined that the rent at which (subject to section 25(2) and (3)) the Property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy beginning on 28 February 2013 would be the existing rent of £ 4 230 per annum.

Signed **D Bartos** Date..... *23rd October 2012*

Chairperson