



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:

RAC/IV2/861

OBJECTION RECEIVED

28 June 2012

OBJECTION

Landlord

ADDRESS OF PREMISES

Brae of Cantray Cottage, Brae of Cantray, Croy, Inverness
IV2 5PR

TENANT

Mr G Williamson

NAME AND ADDRESS OF LANDLORD

Mr J & Miss J Dallas, Brae of Cantray Farm,
Croy, IV2 5PW

AGENT

DESCRIPTION OF PREMISES

Single storey stone cottage with a slate roof. Comprising 3 rooms, bathroom and hall.

Gross internal area – 51 metres squared.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN

SURVEYOR

HOUSING PANEL MEMBER

J Bauld

C Hepburn

M Scott

FAIR RENT

£ 2,600.00 p.a.

DATE OF DECISION

13 August 2012

EFFECTIVE DATE

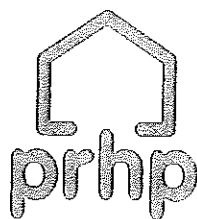
8 June 2012

J Bauld

Chairman of Private Rented Housing Committee

Date

7 September 2012



Determination by Private Rented Housing Committee

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

In connection with the inspection on 13th August 2012

Of the property at Brae of Cantray Cottage, Brae of Cantray,

Croy, Inverness, IV2 5PR

Case Reference Number: RAC/IV2/861

The Parties:-

The landlords of the property are James Dallas and Miss Jessie Dallas, residing at Brae of Cantray Farm, Croy, Inverness, IV2 5PR. The tenant is Mr Gary Williamson, Brae of Cantray Cottage, Brae of Cantray, Croy, Inverness, IV2 5PR. The tenancy is a regulated tenancy in terms of the Rent (Scotland) Act 1984.

Background

1. No registered rent has ever been set for this property. By application dated 17th March 2012, the landlord applied for a rent to be registered. The landlord applied for a registered rent of £50 per week (£2,600 per annum). On 8th June 2012, the rent officer determined a rent of £2,600 per annum (£50 per week) with effect from 8th June 2012. The tenant appealed that determination via an undated letter received in the offices of the Rent Registration Service on 26th June 2012. The tenant's appeal was passed to the Private Rented Housing Panel ("PRHP").

The Inspection

2. The Committee consisting of James Bauld, Chairman, Colin Hepburn, Surveyor and Mike Scott, Housing Member, inspected the property on 13th August 2012. The tenant was present during the inspection. Mr James Dallas was also present during the inspection. Ms Jessie Dallas was not present nor represented during the inspection.
3. The property is a detached one storey stone cottage with a slate roof. It has an interior floor area of 51 square metres. The property consists of three rooms, bathroom and hall. The property has no gas central heating system. The windows within the property were single glazed wooden framed windows. The property had a small garden area to the front. The property is situated in a rural area approximately ten miles outside Inverness. There are neither local shops nor services in the immediate area and very limited public transport links. It is estimated that the property was built in the late nineteenth century, possibly around 1890.

The Hearing

4. After the inspection the Committee held a hearing within the Craigmonie Hotel, 9 Annfield Road, Inverness. The hearing was attended by Mr Dallas. Miss Dallas was represented at the hearing by her representative John K. MacIennan, residing at Easter Glackton Farm, Gollanfield, Inverness, IV2 7UP. The tenant also attended the hearing and represented himself.
5. At the hearing the landlords were asked to explain their reasons for the rent sought of £50 per week. The position put forward on behalf of the landlords was that they believed £50 per week was a reasonable amount for property of that particular size. The landlords estimated that the property would be worth in excess of £80,000. They believed that the plot of land alone would be worth that money. It was explained that the landlords had inherited the farm approximately 28 years ago. Mr James Dallas and Ms Jessie Dallas are brother and sister. They had inherited the farm from their late brother Hugh Dallas. Mr Williamson was already the tenant of the farm cottage at that time.
6. The landlords again asserted that £50 per week was a reasonable rent for the property. They asserted that the rent officer had also agreed that the figure was reasonable. They also stated that the figure had been accepted by the local council as a housing benefit was being paid at that rate. Accordingly they asked the Committee to find £50 per week was a fair rent for the property.
7. The tenant was then asked to address the Committee. In his view the proposed rent level of £50 per week was not acceptable. He indicated that he thought £20 per week would be an acceptable rent. He indicated that when he originally moved there in 1978 the rent had been £8 per week and it had been increased to £12 per week and then to £15 per week at some point in or around 1995. The rent had never been increased since that date.
8. The tenant made reference to various difficulties which he said he had encountered in connection with the landlords and stated that various works were required to be done to the property. He stated that the property was not presently wind and watertight.
9. It became clear that there was no written tenancy agreement between the parties. The parties had never discussed the question of rent review and it was clear that the parties were not able to do so. It became clear that the relationship between the landlords and the tenant had deteriorated and that they now regarded each other with a certain level of mistrust and suspicion. The parties agreed that the field to the rear of the cottage was not part of the rented property and should form no part of the Committee's deliberation when determining rent.
10. Neither party was able to provide the Committee with any comparable properties in the area nor to provide any capital valuations for comparable properties in the area. The hearing was then concluded and the Committee thanked the parties for their attendance.

The Decision

11. In addition to the evidence presented at the hearing, the Committee had the following documentation before them:-
 - Form RR1 in respect of the property being the landlords' application for registration of rent dated 17th March 2012.
 - Determination by rent officer dated 8th June 2012.
 - Written submission by tenant (undated) received 26th June 2012

- Written representation from Mr James Dallas dated 10th June
- Written representation by tenant dated 12th July 2012

12. The Committee considered all the documents provided and listened carefully to all the evidence led at the hearing. The Committee had also obtained details of other properties available for let in the Inverness-shire area from internet advertisements and the local Highlands Solicitors' Property Centre "Property Review" newspaper which is published fortnightly.
13. The Committee were mindful of Section 48(1) of the Rent (Scotland) Act 1984 which requires the Committee to have regard to all of the circumstances (other than personal circumstances) and in particular to apply their knowledge and expertise of other rents with comparable properties in the area as well as having regard to the age, character and locality of the dwellinghouse in question and to the state of repair and, if any, furniture provided for use under the tenancy, the quantity, quality and condition of the furniture.
14. The Committee are also required to assume that in terms of Section 48(2) of the said Act that "the number of persons seeking to become the tenants of similar dwellinghouses in the locality on the terms (other than those related to rent) of a regulated tenancy is not substantially greater than the number of dwellinghouses in the locality which are available for letting on such terms".
15. The landlord suggested a possible capital valuation of the property simply as a plot of land. The landlord suggested that the plot of land upon which the property stood would be worth in the region of £80,000. The Committee was provided no comparable relevant rental for the property by either party. The Committee therefore used their own knowledge and expertise to consider other information relating to capital valuations and rental valuations which were available to them from other sources.
16. The Committee decided that there were two possible methods of determining rent for this property. The Committee could either take a view that the property had a certain capital value and apply an appropriate return on that capital to produce a rental value. Alternatively the Committee could determine the average rental level for similar properties and compare same.
17. Whichever method was used, the Committee also determined that they would have to reflect the fact that the condition of the property was such that substantial internal improvement work would be required to obtain either return on capital values or rental values which were equivalent to those of similar properties which had been fully modernised.
18. In looking at capital values, the Committee took the view that a modernised property of similar size and location to the subject property would have a capital value in the region of £100,000 - £110,000. However, the Committee took the view that to achieve that capital valuation at the subject property, internal renovations would require to be carried out which the Committee reasonably estimated would cost between £40,000 - £50,000. Accordingly a capital valuation of the property as it presently stood would be in the region of £60,000. Applying a return on capital of approximately 5% per annum, the Committee took the view that the appropriate rental based on capital valuations would be in the region of £3,000 per annum.
19. The Committee then decided to consider determining the rental from comparing the subject property with other rental properties. Having considered all the information provided and applying their own knowledge and experience the Committee took the view that the rental level for a fully modernised property of the same size as the subject property would be in the region of £450 per month. The Committee determined that there would require to be a reduction to reflect the fact that this property did not benefit

from all the normal amenities and facilities that would be expected to be in any modernised flat. The Committee further determined that the present property was let unfurnished and again some reduction would be required to reflect that fact.

20. In determining the appropriate deductions, the Committee took the view that the subject property would require to have double glazing installed, it would require central heating to be installed, it would require electrical rewiring work, substantial redecoration and flooring would require to be installed and significant internal framing and insulation would require to be carried out. Additionally, although the bathroom within the property had been upgraded, that had been done by means of a grant obtained by the tenant and the landlords should not be entitled to obtain the benefit of that work. The Committee took the view that the total deduction on an annual basis to reflect the works required would be in the region of £2,360. Accordingly, the rental level which might be obtained by this method would be £3,040 per year.
21. Accordingly the Committee took the view that either method of valuation, either capital valuation or comparable rental valuation, would produce a rent in the region of £3,000 per annum. The Committee noted that the landlords had requested a rent of £2,600 per annum and that the rent officer had determined that such a rent would be a fair rent. Accordingly the Committee took the view that the decision of the rent officer should be upheld and the Committee determined that £2,600 per annum should be the fair rent to be set for this property. The Committee determined that the rent should apply from the date of the rent officer's determination being 8th June 2012.
22. Having determined the rent, the Committee then considered whether there should be any scarcity deduction in terms of Section 48(2) of the 1984 Act. The Committee, applying their own knowledge, skill and experience could find no evidence of excess demand for properties such as the one under inspection and noted also that there were some properties available for rent in the locality of the subjects. The Committee accordingly determined that there was no significant scarcity of properties.
23. Having considered all the relevant factors, the Committee decided that a fair rent for the property at Brae of Cantray Cottage, Brae of Cantray, Croy, Inverness, IV2 5BR should be £2,600 per annum. The Committee decided that this rent should apply from the date of determination being 8th June 2012. In reaching this decision the Committee have had regard to all of the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.
24. The decision of the Committee was unanimous. This decision takes effect from 8th June 2012.

Signed ... **J Bauld**
James Bauld, Chairperson

Date ... 7 September 2012

J Wilson
Signature of Witness

Date ... 7 September 2012

Name: JONATHAN WILSON

Address: 7 West George Street, Glasgow, G2 1BA

Designation: TRAINEE SOLICITOR