



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/KY1/872	18 March 2013	Tenant

ADDRESS OF PREMISES

3 Main Street, Coaltown of Wemyss, Fife, KY1 4NT

TENANT

John Stewart

NAME AND ADDRESS OF LANDLORD

AGENT

Wemyss Properties Ltd
The Tolbooth
Main Street
West Wemyss,
Fife KY1 4SN

DESCRIPTION OF PREMISES

Bungalow in a terrace of historic former miners' cottages in the Coaltown of Wemyss built in the early 20th century. The Accommodation comprises a porch, hall area, lounge, two double bedrooms, kitchen, lean-to conservatory, bathroom with bath and shower toilet and wash-hand basin. There is a garden to the front and rear.
The gross internal floor area is 77.74 square metres

SERVICES PROVIDED

None.

COMMITTEE MEMBERS

CHAIRMAN

D Bartos, LLB(Hons), FCI Arb

SURVEYOR

I. Mowatt FRICS

HOUSING PANEL MEMBER

A.S Campbell

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4 484 p.a.*	23 May 2013	23 May 2013

*

D Bartos

Chairman of Private Rented Housing Committee

Date

23rd May 2013



Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under paragraph 10(1) of schedule 5 to the Rent (Scotland) Act 1984

Case Reference Number: RAC/KY1/872

Re : Property at 3 Main Street, Coaltown of Wemyss, Fife, KY1 4NT

The Parties:-

Wemyss Properties Limited, The Tolbooth, Main Street, West Wemyss, Fife, KY1 4SN ("the Landlords")

Mr John Stewart, 3 Main Street, Coaltown of Wemyss, Fife, KY1 4NT ("the Tenant")

The Committee comprised:-

Mr David Bartos	- Chairperson
Mr Ian Mowatt	- Surveyor member
Mr Scott Campbell	- Housing member

Background:-

1. Mr John Stewart is the tenant of the house at 3 Main Street, Coaltown of Wemyss, Fife by virtue of a statutory protected tenancy. The statutory protected tenancy followed the termination of the contractual protected tenancy dated 17 March 1975. The tenancy is covered by sections 43 to 54 of the Rent (Scotland) Act 1984. The rent under the tenancy is registrable under sections 46 to 50 of the 1984 Act.
2. The previous registered rent was £ 262 per calendar month or £ 3 144 per annum inclusive of service charge. The Landlords applied to the Rent Officer for registration of a rent of £ 4 200 per annum inclusive of

any services or furniture to be registered as a fair rent. It is accepted on all sides that no services nor furniture are provided by the Landlords in exchange for the rent. In terms of the lease the Tenants have the duty to decorate the property internally.

3. On 5 March 2013 the Rent Officer registered a rent of £ 3 624 per annum. This was intimated to the Tenant. The Tenant objected to this by letter of appeal to the Rent Officer dated 15 March 2013. The Rent Officer referred the objections to the Committee.
4. The Committee attended at the property on 16 May 2013. The Tenant and his wife were present. The Landlords did not appear and were not represented at the inspection. The weather was sunny. No. 3 is a mid-terrace bungalow. It forms part of a terrace of bungalows which faces northwards onto Main Street in the village of Coaltown of Wemyss. Main Street is also the A955 road. No. 3 is towards the east end of the terrace. The bungalow terrace of which the property forms part is understood to have been built before the First World War to accommodate the miners who worked nearby collieries which existed at that time. The property is a roughcast building with a red clay pantile roof. Externally the structural condition of the house appeared to be good although some repairs had been carried out to tiling on the rear roof. The house was wind and watertight on the day of inspection. The property has a garden to the front and rear. The front garden facing onto Main Street is covered with red stone chipping with some small trees and bushes. The rear garden faces onto a public street, namely South Row and can be accessed from it. The Tenant has built a wooden garage on the rear garden which can be accessed from South Row. The remainder of the rear garden is largely occupied by a shed, also erected by the Tenant and a vegetable patch. The building is within the Coaltown of Wemyss Conservation area. The village has a general store, a primary school, and a village hall. The village is situated about mid way between Kirkcaldy to the west and Buckhaven, Methil and Leven to the east with a distance of about 5 miles to each urban area and its amenities.
5. The accommodation consists of two double bedrooms, living room, kitchen and bathroom with a gross internal floor area of 77.74 square metres. The double bedroom facing the rear, the bathroom and the living room facing the front are accessed directly from a central hallway. The kitchen faces the rear of the property and is accessed from the living room. The main double bedroom faces to the rear. The bathroom has a bath with shower. This has been installed by the Tenant over the period of the tenancy. A smaller double bedroom faces the front. At the beginning of the tenancy this bedroom was accessed from the hallway. The Tenant has altered the bedroom by

creating within it a small corridor leading from the main hallway which then gives access to the remaining part front bedroom and to a box room which was once part of that bedroom and now provides storage. At the front of the property entry to the main hallway is through an original porch area. The hallway, living room and kitchen have laminated wood type flooring which has been installed by the Tenant. The bedrooms have carpeting installed by the Tenant. The livingroom has an electric heater in the fireplace installed by the Tenant. The units in the kitchen appear to be dated and were installed by the Tenant a number of years ago. The rear door of the kitchen leads to a single-glazed lean-to conservatory from which a door leads to the rear garden. This conservatory was installed by the Tenant's wife. The property has gas central heating powered by a boiler in the kitchen. The central heating was originally installed by the Tenant. However the existing boiler in the kitchen was installed by the Landlords. The property has single glazed sash and case windows. The windows for the bedrooms and the living room are of an 8 paned astragal type in line with the other houses of the terrace in what is a conservation area. The windows at the front of the property in the living room and front bedroom and at the rear in the bathroom cannot be opened following painting. The window in the rear bedroom can be opened slightly with the top sash. It is stiff to open. The rear of the property has a garden which has on it the wooden garage and wooden shed erected by the Tenant and a small patio area and vegetable patch.

6. The Committee took account of their inspection and in addition the following documentary evidence : -
- Copy form RR1 being the Landlords' application for registration of rent for the properties dated 25 January 2013
 - Copy extract from the Rent Register for the property showing among other matters the rent registered by the Rent Officer for the property on 5 March 2013
 - Copy reference to PRHP from the Rent Officer dated 18 March 2013
 - Copy letter of appeal dated 15 March 2013

The Hearing

7. At the conclusion of the inspection the Committee held a hearing within the Coaltown of Wemyss Village Hall, 70 Main Street, Coaltown of Wemyss KY1 1NP. The Tenant appeared accompanied by his wife Mrs C. Stewart. There was no appearance by or for the Landlords.

8. The Committee explained to the Tenant the task of the Committee and what was entailed in a fair rent for the purposes of the 1984 Act. Mrs Stewart explained that neither she nor her husband had a view on what the level of a fair rent should be. The reason for the objection or appeal against the Rent Officer's finding was that it was felt that an increase of £ 40 per month was excessive given the leaks which they had had in the roof and the condition of the windows. The Tenant did not put forward any examples of comparable lets and rents.

Reasons for Decision

9. The Committee considered carefully all the evidence presented, together with the observations of the Committee members at the inspections.
10. In considering the objection of the Tenant to the rent registered by the Rent Officer the Committee requires to determine for itself what rent is or would be a fair rent under a regulated tenancy of the property in question. If the Committee determines that the rent registered by the Rent Officer is a fair rent then it must confirm the rent but if it takes the view that the rent so registered is not a fair rent, then it must determine the fair rent for the property in question. The duty of the Committee to determine the fair rent is set out under section 48 as of the Rent (Scotland) Act 1984.
11. In determining the fair rent the Committee is obliged to have regard to all circumstances (other than personal circumstances) and in particular to apply their knowledge and experience of current rents of 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 under the tenancy to the quality, quantity and condition of the furniture. In determining the fair rent the Committee are obliged to assume that the number of persons seeking to become tenants of similar properties in the locality on the terms (other than those relating to rent) of the tenancy is not substantially greater than the number of dwellinghouses in the locality which are available for letting on such terms. The Committee are obliged to disregard any improvement or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the tenancy by the tenant or any predecessor of his under the tenancy.
12. The Committee considered which method should be applied for determining a fair rent. The three accepted methods are :
 - (a) having regard to registered rents of comparable dwellinghouses in the area;

- (b) taking market rents and deducting an amount in respect of improvement and the like which requires to be disregarded and an amount if the market rents did not reflect the assumption as to demand not being substantially greater than supply (the assumption as to absence of scarcity) and
- (c) calculating the appropriate return based on the capital value of the property, taking into account the assumed absence of scarcity.

13. None of these methods is regarded as the primary method.
14. No comparable registered rents were made available to the Committee. However, the Committee's investigations with letting agents and internet sources disclosed a number of two bedroom properties in the area which had let or had been available for let. The calculation of an appropriate return based on the capital value of the property did not appear appropriate given (1) the imprecision of such a calculation which invariably requires the use of contentious variables (in particular the decapitalisation rate) compared to the relative ease of using comparable rents and (2) the readily available evidence of open market let property in the area. Accordingly, the Committee considered that to determine a fair rent it was appropriate to compare open market rents for similar properties in the locality of the property
15. A two bedroom semi-detached bungalow of a terrace style, on Main Street in the village of Milton of Balgonie, was being advertised at £ 475 per calendar month. A former miners' one bedroom mid terrace bungalow at Approach Row, East Wemyss was being advertised at £ 395 per calendar month. Within Coaltown of Wemyss itself a let of a 2 bedroomed upper flat on Main Street at the west end of the village had been recently agreed at £ 450 per calendar month.
16. The Committee was not addressed on whether or not the market rents for comparable properties in the locality reflected the demand for tenancies of such properties being not substantially greater than supply (the absence of scarcity). However using its knowledge and experience the Committee considered that there was no scarcity of such properties and that the assumption of an absence of scarcity was reflected in the market rents for comparable tenancies in the locality which it took as the area of South-east Fife
17. The two bungalows considered as comparables were to be let as unfurnished. That in Milton of Balgowrie had recently modernised fixtures and fittings. That in East Wemyss had a modernised bathroom. The upper flat was also unfurnished (apart from a washing machine and refrigerator) but had not been modernised. It had a single bedroom

and a double bedroom. By contrast the property in issue had two double bedrooms and gardens, particularly the south-facing garden to the rear. Nevertheless, its fixtures and fittings had not undergone a general modernisation in contrast to the Milton of Balgownie property. In these circumstances and weighing up the various circumstances of the comparable properties, the Committee exercising its expertise took the view that leaving aside the conservatory, the garage and the garden shed as improvements carried out by or on behalf of the Tenant, none of which were present in the comparable properties, the property at No. 3 could be let reasonably for £ 475 per calendar month or £ 5 700 per annum.

18. Over the years the Tenant had carried out considerable replacement to the internal fixtures and fittings of the premises and made improvements. These included the installation of kitchen units, worktops and other kitchen fixtures; the laminate flooring and carpets, and the central heating system excluding the current boiler. All three properties used as comparables had kitchen units and relative fixtures and fittings, modernised bathrooms, including in the case of the bungalows, a shower, and double glazing. The Milton of Balgownie bungalow and the upper flat had modern flooring. Given that the internal replacements and improvements by the Tenant fell to be disregarded in the fixing of a fair rent, the Committee considered what the Landlords would require to spend in relation to the Tenant's replacements and improvements in order to achieve the rent of £ 5 700 per annum and the approximate lifetime of such replacements and improvements. From these figures the Committee allocated an annual cost of such expenditure and in order to apply the disregard, deducted the annual cost from the rent of £ 5 700 per annum.
19. In the exercise of its expertise the Committee took the view that a new kitchen and bathroom were necessary at approximate costs of £ 4 000 and £ 3 000 with a rough lifetimes of 10 years giving annual costs of £ 400 and £ 300; double glazing units with an approximate cost of £ 4 000 and lifetime of 15 years giving annual cost of £ 266; and flooring with an approximate cost of £ 1 000 and lifetime of 5 years giving an annual cost of £ 200. In addition the Committee noted that the Tenant had installed radiators and piping for the central heating which fell to be disregarded. Allowing for a cost of £ 750 for these and a 15 year lifespan, this gave an annual cost of £ 50. Applying these deductions totalling £ 1 216 per annum the Committee determined that a fair rent for No. 3, Main Street, Coaltown of Balgownie would be £ 4 484 per annum being £ 373 per month.
20. The Committee, after considering all the available evidence determined that the rent registered by the Rent Officer was not a fair

rent and that a fair rent for No. 3 Main Street, Coaltown of Wemyss, Fife was £ 4 484 per annum.

21. In reaching this decision the Committee had regard to all of the requirements of section 48 of the 1984 Act.

D Bartos

Signed Date: 23 May
2013.....

David Bartos, Chairperson