

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
RAC/AB36/457	12 December 2006	Landlord

ADDRESS OF PREMISES

Apple Cottage, Forbestown, Strathdon, Aberdeenshire, AB36 8UN

TENANT

Mr G Johnston

NAME OF LANDLORD

Candacraig Trust

AGENT

Mr R Leslie-Melville
Land Management (Scotland) Ltd
Auchmacoy Estate Office
Auchmacoy
AB41 8RB

DESCRIPTION OF PREMISES

Detached house circa 1900 comprising on ground and attic floors: living room, sitting room, conservatory, kitchen, bathroom and two bedrooms. Extensive garden ground with garage, car space and sheds.

SERVICES PROVIDED

Maintenance of private water supply apparatus.

COMMITTEE MEMBERS

CHAIRMAN

Mrs A McCamley BA LLB NP

PROFESSIONAL MEMBER

Mr C Hepburn ARICS

FAIR RENT

£3500.00 per annum

DATE OF DECISION

8 February 2007

**EFFECTIVE
DATE**

8 February 2007

A McCamley

Chairman of the Rent Assessment Committee

8/2/07.
.....
Date

RENT ASSESSMENT COMMITTEE

STATEMENT OF REASONS

Apple Cottage Strathdon Aberdeenshire

8th February 2007

This is a reference to the Rent Assessment Committee under the provisions of Schedule 5 of the Rent (Scotland) Act 1984 following an objection by the Landlord, Candacraig Estate.

The Rent Officer registered a rent of £2800 per annum with an effective date of 27/11/06. The previous rent as determined by a Committee was £2500. The landlord sought an annual rent of £4800.

On 8/2/07 the Committee, comprising Mrs A McCamley (Chairman) and Mr C Hepburn (Surveyor), attended an Inspection and Hearing at the property. Mrs Robertson accompanied the Committee as an Observer.

Inspection

The property was inspected in the presence of the Tenant . At the request of the Tenant the Landlord did not accompany the Committee during the inspection.

The property comprises a detached one storey attic cottage principally of stone and slate construction , with a single storey sun lounge extension to the front.

The accommodation ,which is on two floors ,comprises sun lounge, vestibule, lounge, sitting-room, kitchen and bathroom. There are 2 bedrooms on the attic floor. The property benefits from a large garden ,garage, and sheds. There is oil fired central heating ,double glazing, and a mains electrical supply.

The Tenant has attractively decorated and immaculately maintained the property.

Documentation

The documentation before the Committee consisted of : -

RRI Application

Landlord Objection

Rent Register pages

Tenant Representations

Landlord Representations

The Hearing

For the convenience of all parties and by courtesy of the Tenant the Hearing was held in the property immediately after the inspection. The Chairman introduced the Committee and explained the Committee's remit.

By way of preliminaries, it was confirmed as follows ;

The property had been let to the Tenant since 1978/79.

The contractual tenancy was for 20 years under which contractual agreement the Landlord agreed to a Peppercorn

rent rising to a Concessionary rent after 10 years. In return for the Peppercorn and Concessionary rents the Tenant had security of tenure for the period of the lease and undertook to meet the full refurbishment and maintenance costs of the property

After sundry procedures, from November 2001 the contractual tenancy was replaced by a Statutory tenancy under s.3 of the Rent (Scotland) Act 1984. As a consequence of s.15(1) of that Act, whilst the type of tenancy changed the terms of the tenancy agreement liability for maintenance and repair continued under the contractual agreement with the tenant remaining liable to maintain and repair the property.

At the Hearing parties agreed to vary the terms of the tenancy to place the burden of maintenance and repair on the landlord. Henceforward, and of consent, the Landlord is to be held liable for all building maintenance and repair.

The Landlords agent asked Committee to consider setting a Fair Rent by looking at the Rent Register Pages and at the rent set for Rose Cottage in particular. The cottage is a close neighbour to Apple Cottage, has the same size of accommodation and would make a fair comparator. The landlord did not press the case for a market rent and rested on the written submissions in that regard.

The Tenant explained the property had been in a poor state when he took it over about 30 years ago. Between 20 and 30 years ago he had undertaken a great deal of work turning a shell into a charming home, reconfiguring the interior, installing double glazing, heating, modern plumbing and electrics, and completely re-roofing .

The Decision

The Rent Assessment Committee do not accept the determination of the fair rent by the Rent Officer. The Rent Assessment Committee determines that a fair rent for the property is £3500 per annum with effect from 8/2/07.

Reasons for the Decision

Committee carefully considered all the written evidence together with observations made by Committee members at the inspection, the points raised in the written submissions and the oral evidence of the Landlord and Tenant at the Hearing.

In particular the Committee considered which of the alternative methods of ascertaining a fair rent was most *appropriate in this case*. It is settled law that the three main guidelines are:-

- (a) To compare registered rents for other similar protected tenancy properties.
- (b) To have regard to free market rents for similar properties.
- (c) To ascertain what would be a fair return to the Landlord on the capital value of the property.

Neither party made any submission to the Committee on the basis of capital value and the Committee had no information thereon.

As regards free market rents the Landlord gave details of 4 properties let on the open market at monthly rental of

between £480 and £550. We have details of the amount of accommodation in these properties but we have no idea of how long they took to let or their condition. We were not fully addressed on the issue of scarcity in the location. Thus in the absence of information and submissions we concluded that having regard to market rents would not provide the best way of arriving at a fair rent for the reference property.

As regards rent register comparisons we were asked, by the Landlord, to consider Rose Cottage as the closest "match" to Apple Cottage. From the description given in the Register and having heard parties we agree Rose Cottage is a suitable comparator and we resolved to proceed on that basis. Of agreement there seems to be little substantial difference between these cottages. Furthermore, using its own knowledge and experience of comparable property in the area the Committee was satisfied that £3500 per annum was a rental which was fair for the Landlord to demand and the tenant to pay.

In reaching its decision the Committee had regard to all the circumstances required to be taken into account in terms of sections 48 and 49 of the Rent (Scotland) Act 1984 .

The rent fixed by this Committee takes effect from the date of this decision namely 8th February 2007.

A McCamley

Chairman

d

19/2/07