

## RENT ASSESSMENT PANEL FOR SCOTLAND

### RENT (SCOTLAND) ACT 1984

### NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
RAC/TD7/464	17 January 2007	Landlord

#### ADDRESS OF PREMISES

1 Victoria Crescent, Selkirk, TD7 5DE

#### TENANT

Mr A George

#### NAME AND ADDRESS OF LANDLORD

Mrs Freda Petts, The Stables, 2 Thornfield Avenue, Selkirk, TD7 4DT

#### DESCRIPTION OF PREMISES

Upper villa flat with gas central heating and double glazing built 1910 comprising living room, one bedroom, kitchenette and bathroom.

#### SERVICES PROVIDED

None

#### COMMITTEE MEMBERS

CHAIRMAN	Mr D O'Carroll LLB(Hons) Dip LP
PROFESSIONAL MEMBER	Mr D Marshall FRICS
LAY MEMBER	Mr M Innes

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£2400.00 per annum	2 March 2007	2 March 2007

**D O'Carroll**

Chairman of the Rent Assessment Committee

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Date

2 March 2007

### **Rent Assessment Committee**

#### **Statement of reasons for decision following a reference to the RAC following a determination of a fair rent by the rent officer**

*1 Victoria Crescent, Selkirk, TD7 4DT*

#### **Introduction**

1. This is a reference to the RAC ("the Committee") in respect of 1 Victoria Crescent, Selkirk TD7 5DE ("the subjects"). The landlady is Mrs Freda Petts and the tenant is Mr A. George. The tenancy is a statutory tenancy under the Rent (Scotland) Act 1984. On 17 November 2006, on the application of the landlady, the rent officer registered a fair rent of £2,050 per annum effective from that date. The landlady timeously objected to the registered rent on the grounds that it was too low. She sought a fair rent of £2,400 per annum. Accordingly, the matter was referred to the Committee for determination. Both parties were invited to make written representations, to attend the inspection and to attend a hearing. The landlady made written representations and supplied evidence of rental values in the area. Both parties attended the hearing which was held in the subjects. The inspection and hearing took place on 2 March 2007.

#### **Findings in fact**

2. The Committee makes the following findings in fact following its inspection of the subjects, their surroundings, consideration of all written and oral evidence and the application of its own knowledge and expertise.
3. The subjects form an upper villa flat in a 2 storey and basement block of 4 similar dwellings. The accommodation comprises living room, bedroom, kitchenette and bathroom, with double glazing and gas central heating. Access is by an external stair to the rear up to ground floor, and an internal stair to the upper floor.
4. The area considered by the Committee for the purposes of fixing a fair rent was not just the Selkirk town, but the surrounding area including towns such as Melrose, St Boswells and Galashiels.
5. There are three other flats located in the building of which the subjects form a part. Both are on the ground floor. Both are let on short assured tenancies. The passing rents are £233 and £240 per month (or £2,796 and £2,880 per annum). Those flats are similar in extent and character to the subjects except that both are more accessible being on the ground floor. Eildon Housing Association, which is locally based, charges just over £200 per month for a one-bedroomed flat, on the second floor, in a new-build

building, close to the centre of Selkirk. That housing association provides social housing on a not-for-profit basis. Its rents are fixed by a method that ignores increase in value caused by excess of demand of supply.

6. The Committee's own enquiries revealed the following facts. At present, one solicitor in Selkirk has just achieved a rent of £240 per month (£2,880 per annum) for a one-bedroomed flat in Selkirk centre, which does not have central heating or double glazing. Another one-bedroomed flat in Selkirk centre is currently offered for let at £265 per month (£3,180 per annum), which has resulted in a large number of enquiries. A third one-bedroomed flat in the town centre, which is fully modernised and with central heating, is being offered at £295 per month (£3,540 per annum). Demand for one bedroomed flats in Selkirk, whether for rent or for sale, is high. Such properties are never on the market for long.
7. The Committee was not supplied with comparable rental values for areas other than Selkirk. In the absence of any information to the contrary, the Committee assumes that rental values in the surrounding areas are in line with those found in Selkirk. However, as is usual, rental values within a town centre will usually be higher than in surrounding, more rural, areas.
8. The range of rents for such accommodation, in the wider area described above, would be in the range £220 to £295 per month). In their present state, the market rent for the subjects would be around £230 per month.
9. Rental values for one bedroomed flats in Selkirk are affected by an excess of demand over supply, that is, rental values in Selkirk include an element representing the relative scarcity of such accommodation. That element is broadly estimated at 15%.

#### **The law**

10. The Committee is bound to fix a fair rent for the subjects by applying the terms of the Rent (Scotland) Act 1984, and in particular section 48. It is required to have regards to all the circumstances. There is no single or preferred method for the fixing of a fair rent. While various methods are used to reach a final figure, it is for the Committee to determine, based on the evidence before it, the best method to fix the fair rent. The fair rent fixed should be fair to the landlady and fair to the tenant. In terms of section 48(2) of the Act, the Committee is bound to disregard various factors, including any element attributable to 'scarcity'; that is, excess of demand over supply of the accommodation in question. Where the rent includes an element in respect of charges for services, in terms of section 49(6) of the 1984 Act, the amount to be registered may only be registered

as variable if the terms as to variation are reasonable. If the Committee is not so satisfied, the Committee registers a fixed service charge. In this case, there are no services provided.

### **The decision**

11. The RAC does not accept the determination of the fair rent by the rent officer. The RAC determines that a fair rent for the subjects, determined in accordance with Part V of the Rent (Scotland) Act 1984, is £2,400 per annum, (£200 per month), with effect from 2 March 2007.

### **Reasons for the decision**

12. The Committee, taking account of its findings in fact as to comparable market rents in Selkirk town, the market conditions, utilising its own knowledge and experience as to the likely level of rents for similar property in the wider area, was satisfied that the range of market rents for one-bedroomed flats in the area would be in the range of £220 to £295 per month. Given the situation of the subjects, (off a steep street, then requiring a walk down a steep path and then a walk up steep narrow stairs), as well as the very small and basic kitchen, the Committee decided that the market rent for these subjects would be close to the bottom end of this range: £230. That figure is consistent with the slightly higher rents actually being paid for the two other flats in the building, which, on account of being on the ground floor, would be more desirable.
13. The Committee was also satisfied on the basis of the evidence before it and its own knowledge and experience of the property market in the area, that there was a high demand for such property and that rental values would therefore include an element to account for excess of demand over supply, or 'scarcity'. Assessment of that figure is a difficult exercise and the evidence before the Committee was limited in that regard. Although demand for accommodation was healthy, the Borders area does have some economic problems and wage levels are not particularly high. Selkirk is a small town with a population of around 5,000. Although Galashiels is rather larger, the total population in this rural area is not great. Those factors would effectively dampen the amount that would be accounted for by scarcity. Assessing matters as best it can, the Committee decided that rental values for properties such as the subjects would be inflated by an amount of around 15% to reflect excess of demand over supply. Thus, applying that figure to the estimated market rent of the subjects produces a rent £200 per month exclusive of the 'scarcity element'.
14. As a cross-check, the Committee noted that the Eildon Housing Association flat had a rental value of slightly over £200. Given that that

figure is one that is fixed without reference to scarcity, the Committee considered that the level of that rent provided a reasonable cross-check. Furthermore, the landlady herself considered that £200 per month was an appropriate level for a fair rent. That figure, she said, was reasonable taking account of her knowledge of rents in the area (she lives in Selkirk town) and the rents paid locally, including the rent that she pays (£400 for a small three-bedroomed flat). The Committee considered that her evidence on this issue, and in particular the request for £200 per month, was a highly relevant consideration to which the Committee was bound to have regard. In the event, it forms a further sound cross-check on the figure reached by the Committee for a fair rent.

15. This fair rent takes effect from the date of this Committee's decision.

**D O'Carroll**

**Derek O'Carroll, Advocate, LLB (Hons); DipLP.**

**Chairman of the Rent Assessment Committee**

*2 March 2007.*