



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/EH3/596	30 July 2007	Landlord

ADDRESS OF PREMISES

1F2, 10 Home Street, Edinburgh, EH3 9LY

TENANT

Mr D Rintoul

NAME AND ADDRESS OF LANDLORD

Miss J Rose Exp.
Per Menzies Dougall WS
12 Bruntsfield Crescent
Edinburgh
EH10 4EZ

AGENT

Ryden Lettings Ltd.
100 Hanover Street
Edinburgh
EH2 1DR

DESCRIPTION OF PREMISES

First floor tenement flat circa 1890 comprising entrance hall, living room, box room, two bedrooms, kitchen/dining room and wc.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN

PROFESSIONAL MEMBER

Mrs A McCamley BA LLB NP
Mr D Marshall FRICS

FAIR RENT

£ 4250.00 p.a.

DATE OF DECISION

26 October 2007

EFFECTIVE DATE

26 October 2007

A McCamley

Chairman of Privat Rented Housing Committee

26/10/07

Date

RENT ASSESSMENT COMMITTEE

STATEMENT OF REASONS

HELD ON: 26th OCTOBER 2007

PROPERTY: 1st Floor Flat, 10 Home Street, Edinburgh
(hereinafter referred to as "the Flat")

1.0 Introduction

The Committee at the inspection comprised Mrs. A. McCamley (Chairman), Mr. D. Marshall (Surveyor) and Mrs. Irene Kitson (Lay Member). Unfortunately at the conclusion of the inspection Mrs. Kitson had to absent herself from any further part in the proceedings, as at that point, it was obvious the Hearing and decision making process would take rather longer than initially anticipated and sadly Mrs. Kitson had to attend a funeral later in the morning. Accordingly although a three man Committee attended the inspection, the Hearing and decision making process was undertaken by the Chairman and the Professional Member.

The Landlord is Miss J. Rose Exp per Ryden Letting Limited. The Tenant is Mr. D. Rintoul. This reference to the Rent Assessment Committee for determination of a fair rent under the Rent (Scotland) Act 1984 is in respect of a first floor flat known as 10 Home Street, Edinburgh and arises from dissatisfaction on the part of the Landlord.

By way of background the current rent is £2,000 per annum. The Landlord applied for the rent to be increased to £4,250 per annum. The Rent Officer registered a rent of £3,000 with effect from 17th July 2007. Thereafter the Landlord referred the determination to the Rent Assessment Committee.

2.0 Inspection

The flat was inspected by the Committee on 26th October 2007 in the presence of the Tenant. Although the Landlord's agent was invited to attend the inspection he declined to do so.

- (1) The Situation:- The flat is located within the Tollcross area of Edinburgh which is a vibrant and cosmopolitan area. The flat is situated on a busy main thoroughfare. There are many small local shops and easy access to cinemas, theatres, public open space (The Meadows), schools and colleges. Public transport links into the centre of the City and throughout Edinburgh are excellent.

(2) The Exterior:- The property forms the first floor of a traditional tenement. There are six flats in the block with shops on the ground floor. The flat benefits from a door entry phone system. The internal close is untidy, however we noted the stonework to be very well maintained. There is a yard to the rear. This acts as a fire exit station for local night clubs. On the date of inspection the property was wind and water tight and the structural condition of the building as a whole was in keeping with its age and general location.

(3) The Interior:- This is a tenement with three main rooms – a kitchen, sitting room and bedroom. There is a w.c. but no bathroom. Off the sitting room is a small box bedroom and a traditional boxroom currently used as a study. Entry to both these rooms is via the sitting room.

The sitting room is to the front of the property and overlooks the main thoroughfare. This is a very busy arterial route into Edinburgh. The property is situated at traffic lights. Traffic noise was evident when we were in the sitting room.

The box bedroom is off the sitting room and is a small single room. It would accommodate a single bed and a chest of drawers. It also has a window overlooking the main thoroughfare.

There is a small box room study which is also off the living room. This room has no external light and is currently used as a computer room/study.

The kitchen is to the rear of the property. This is a very generously proportioned room and is large enough to hold a dining table and chairs. The fitments are of a very basic standard and have been provided by the Tenant.

The bedroom is also to the rear of the property. It has adequate space for a double bed and associated bedroom furniture.

There are two large cupboards in the hall which are currently used for storage. These cupboards could be knocked out to form a shower room.

There is a w.c. off the hallway. This comprises only a lavatory. There is no wash-hand basin.

The property is heated by free standing electric radiators and one gas fire in the sitting room. These have all been installed by the Tenant.

The flat was re-wired about twelve years ago. This was done by the Tenant.

The property has not been decorated in recent years and is in a very poor decorative order. It should be noted that internal decoration is the responsibility of the Tenant.

3.0 Documentation

The Committee considered the undernoted documents:-

RRI Application

Landlord Representations

Rent Register Pages

All other papers contained within the Case File

4.0 The Hearing

A Hearing was held at the request of the Tenant. Initially the Landlord indicated he did not wish to attend however when the Hearing was convened the Landlord's agent was in attendance and amplified the terms of his submission. Although the Hearing was at the request of the Tenant the rent reference was made by the Landlord and accordingly it was appropriate for the Landlord to expand on the written submissions at the commencement of the Hearing.

Mr. Adair (for the landlord) referred to the terms of his written submission and also brought forward an advertisement from Arden Property Management giving details of a property currently to let in the same block as the reference property. This property is on the market for a rent of £680 per calendar month. It is a recently refurbished second floor flat with two double bedrooms, a good size lounge, a fully fitted kitchen, a bathroom with an electric shower. The property has full gas central heating. We took this production into the evidence bundle.

Mr. Adair confirmed the landlord would be willing to provide a bathroom and indeed had offered to provide the same in previous years. Mr. Rintoul was not receptive to this offer.

In the view of the Landlord the property, once refurbished, could bring in a monthly rental of £680 per calendar month. The very least it would bring in would be £350 per month and in support of this he gave details of a top flat at 29 Lauriston Street which has a double bedroom, a sitting room, a kitchen and w.c. but no bathroom and no central heating which property lets at £350 per calendar month (this property has only one bedroom).

In his submission Mr. Rintoul told us that he suffered from the traffic noise at the front of the house and the late night noise emanating from the various entertainment venues in close proximity to his flat. He also commented on the dark aspect of the property at the rear.

Mr. Rintoul assured us he was not troubled by the lack of a bathroom in the property. He confirmed the Landlord had offered to provide a bathroom however he did not wish to be troubled with the upset of workmen in the house.

5.0 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 subjects is £4,250 per annum with effect from 26th October 2007.

Reasons for the Decision

The Committee carefully considered all the written evidence together with observations made by Committee members at the inspection, the points raised by the Landlord in his written submissions and the oral evidence of both the Tenant and the Landlord 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 similar protected tenancy properties.
- (b) To ascertain what would be a fair return to the Landlord on the capital value of his house.
- (c) To have regard to free market rents for similar properties.

In this case the clerk had prepared a schedule containing two comparable registered rents. . The Committee was not attracted by these comparators for the following reasons. We had reservations when we discovered that these determinations had been made by the Rent Officer and not by a Rent Assessment Committee. The Committee cannot speculate as to how the Rent Officer reached his determination. We have no knowledge as to whether these properties have been modernised nor are we aware of the proportion of the rooms. It certainly appears that the property in Lochrin Place has only one room and kitchen while the property in Brougham Street had an effective registration date fifteen months earlier. We are also concerned that the Rent Officer may have perpetuated a deduction for scarcity when determining these rents.

These concerns having been raised regarding the method by which the Rent Officer determined his figures for the comparable properties we concluded that direct interpolation from the Rent Register would not provide the best way of arriving at a fair rent for the reference properties.

The Landlord's agent addressed the Committee on the capital value of the property and indeed had made reference thereto in his written submission. We are not satisfied that having regard to capital values would provide the best way of arriving at a fair rent for the reference property. Capital values in Edinburgh are volatile and we would not wish to speculate as to the capital value of this particular property after refurbishment.

Committee resolved to proceed by having regard to market rents for similar properties. The Committee is aware through its own market knowledge reinforced by the advice of its Professional Member, who was able to produce a list of current lettings from the local press, taken together with the information on letting provided by the Landlord, that market rents for flats of the same size and in the same locality as the reference property are around £400 to £500 per month fully furnished with central heating and all modern conveniences. The Landlord's agent contended that a fair rent for the property should be at least £4,250 per annum (£354 per calendar month)

and while the market rent evidence might suggest a higher rental figure we take the view that the Landlord can reasonably be assumed to know the potential of his own property and, having particular regard to the rent achieved for the Lauriston Place property, we are content to set a market rent at £4,250 per annum.

Having determined the market rent the Committee considered whether there should be any scarcity deduction in terms of Section 48(2) of the 1984 Act. The Committee applying its skill, knowledge and experience, taking advice from its Professional Member, and indeed taking into account the evidence of the Tenant, who told us that properties in his stair took a long time to let the Committee takes the view that there is no significant scarcity of properties of this type and there is fair equilibrium in the market.

Accordingly the market rent is the fair rent in this case. Thus the decision of the Rent Officer is revised upwards with effect from 26th October 2007. The rent fixed by the Rent Officer remains effective up to that date.

Parties should be aware that in terms of Section 46(3) of the 1984 Act either party will be at liberty to seek a re-determination of this figure before the expiry of three years if any of the conditions in that sub-section are satisfied.

A McCamley