



**Statement of decision of the Private Rented Housing
Committee under Section 25 of the Housing
(Scotland) Act 1988**

prhp Ref: PRHP/RA/15/0100

Re : Property at 113 Oscar Road, Aberdeen, AB11 8EL ("the Property")

The Parties:-

Mr Gordon Rae and Mrs Sheila Rae, 113 Oscar Road, Aberdeen, AB11 8EL ("the Tenant")

Mr William Rae and Mrs Elaine Rae, 34 Sanday Road, Aberdeen, AB15 6DT ("the Landlord")

Introduction

This is an application by the Tenant for a determination of the rent payable under Section 25 of the Housing (Scotland) Act 1988. The Tenancy is a Statutory Assured Tenancy. The Tenant applied to the Committee for a determination of rent on the prescribed form AT4 dated 15 March 2015.

Inspection of the Property

The Private Rented Housing Committee comprising Mrs Judith Lea, (Chairman and Legal Member). Linda Robertson (Housing Member) and Colin Hepburn (Surveyor Member) inspected the property on 8 June 2015.

The Landlord, William Rae and the Tenant, Gordon Rae were both present at the inspection. The Tenant's friend Rae Brown was also present.

The property is a three bedroomed former local authority semi-detached villa constructed of brick and slate located in a residential area of Torry, Aberdeen. There is reasonable access to local services. The property has a garden area to the front and rear and on street parking is available. The accommodation comprises three bedrooms, living room, hall, kitchen and bathroom. There is a vestibule off the hall. The property has gas central heating and double glazing. The kitchen has fitted units but these are somewhat dated. There was a leak in one of the cupboards in the kitchen. The shed and decking in the back garden are in poor condition and rotting. The back garden is in an untidy condition.

Hearing

After the inspection the Committee convened a hearing at the Credo Centre, John Street, Aberdeen. The Tenant, Gordon Rae, was in attendance with his friend, Rae Brown. The Landlord, William Rae, was in attendance.

It was confirmed by both the Landlord and the Tenant that the tenancy was a verbal agreement which started in February 2011. At this time the Landlord purchased the property from the Tenant and it was agreed that the Tenant pay the Landlord £500 per month. The Tenant's position is that there is an ongoing dispute with regard to the sale and that the monthly rent of £500 was to continue for the Tenant's lifetime. The Landlord's position is that the rent of £500 was agreed in 2011 to assist the Tenant and was not a lifetime rent. The Landlord and the Tenant are brothers.

It was clarified that there was currently a Repairing Standard Enforcement Order in force in respect of the property and a copy was produced to the Committee. A Repairing Standard Enforcement Order had been made in respect of defects in relation to the gas central heating boiler, the electrical installations, the garden shed and decking and the fire detection system in the property. The Landlord indicated that although he had agreed to replace the boiler, the Tenant had tampered with the boiler and there was an ongoing investigation about this. The Landlord's position was that it was possible to put the heating on. The Tenant advised that the boiler had been condemned as unsafe in December 2014 but the plumber had not dealt with matters appropriately and had not issued warning labels etc. The Tenant had fitted a part on the boiler and the Health and Safety Executive had sent engineers who said the system was now ok but it still needed a gas safety certificate and a closet screw. The Landlord indicated that he had a difficulty getting access to rectify the position with the boiler.

There was some confusion on the part of the Tenant with regard to exactly what his application to the Committee was. The Tenant seemed to be under the impression that the Committee was here today to deal with a Rent Relief Order in respect of the Landlord's breach of the Repairing Standard Enforcement Order. It was explained to the Tenant that the Committee was dealing with a completely different issue being an application by the Tenant asking the Committee to make a Rent Determination. The Committee enquired of the Tenant as to whether or not the Tenant wished the Committee to continue to make such a Determination or whether the Tenant wished to withdraw the application.

After considering his position, the Tenant confirmed that he wished to continue with the application and have the Committee make a Determination.

The Landlord advised that he was looking for a fair rent and that he thought the rent for other properties in the area was much higher than the £500 per month currently being paid. He indicated that he had a number of properties in Aberdeen and had a three bedroom property in Rosemount which had a rent of £1100 per month. He had a three bedroom property in Rosehill with a rent of £950 per month and a one bedroom property in Walker Road, a street close by where he got £750 per month.

The Landlord also advised that work was to be carried out next week to take the sheds away. He indicated that there had been difficulty removing the sheds because when he came into the garden to remove items there was then a complaint to the police with regard to theft.

The Tenant indicated that he did not have anything to add in connection with the market rent of the property other than to advise that there was a verbal agreement that it be £500 per month for life.

There was a dispute between the Landlord and Tenant with regard to who put in the cooker and the sink in the kitchen and whether or not the sale from the Tenant to the Landlord had included the furniture in the property.

Decision

Despite the fact that there was no written tenancy agreement in this case there was agreement between the parties that the Tenant had entered into an oral tenancy agreement in 2011. The Committee accordingly considered that it did have jurisdiction to consider the case. The Tenant confirmed that despite his confusion he wished to continue with the application to have the Committee determine the rent.

In terms of Section 25 of the Housing (Scotland) Act 1988 in determining the rent the Committee shall have regard to what the house might reasonably be expected to be let for on the open market by a willing Landlord under an Assured Tenancy. In doing this the Committee require to consider the state of the property as at today's date being the date of inspection. The Committee must disregard any improvements carried out by the Tenant.

There was some disagreement between the Landlord and the Tenant with regard to whether or not the property was furnished and who put in the units in the bathroom and the kitchen. In connection with the bathroom, it was clear that when the tenancy started in 2011 the units in the bathroom were already in place. In connection with the kitchen, it was difficult for the Committee to make any findings in fact with regard to exactly who had put in what items when. What was clear however was that there was a kitchen in the property when the tenancy commenced. The kitchen is dated and could do with some modernisation.

The Committee also noted the terms of the Repairing Standard Enforcement Order in respect of the boiler and considered that the rent would be required to be reduced to take account of the fact that the central heating system is not currently in full working order. Likewise in connection with the state of the back garden, the work required by the Repairing Standard Enforcement Order has not yet been carried out by the Landlord and the Committee considered that the market rent would require to be reduced to reflect this.

In connection with whether the property is let on a furnished or unfurnished basis, the Committee did not have sufficient evidence before it to satisfy it that the tenancy was anything other than the usual unfurnished let.

The Committee noted the comparables mentioned by the Landlord. The Committee was also aware from its own experience and knowledge that a three bedroom property in this area of Aberdeen would let for a market rent of approximately £900 per month. This would be for a property with working gas central heating, a modernised kitchen and a tidy back garden.

The Committee considered that to replace the boiler, modernise the kitchen and rectify the back garden would cost approximately £6000 and would have a life of approximately 10 years.

The Committee made deductions in respect of the gas central heating, kitchen and state of the garden of £200 per annum for each, resulting in a rent of £850 per month.

The Committee did not accept the Tenant's assertion that there had been an agreement that the rent be £500 for life. This would be a very unusual situation and was disputed by the Landlord.

The Committee accordingly determined that a market rent for this property in its current condition is £10,200 per annum. The Committee ordered this to take effect from the date on the AT2 Notice being 12 August 2015.

Signed **J. Lea**
Chairperson

... Date 1 July 2015