



PRIVATE RENTED HOUSING PANEL

Rent (Scotland) Act 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
PRHP/RR/13/0016	17 May 2013	Tenant

ADDRESS OF PREMISES

21 Abbey Grange, Newtongrange, Midlothian, EH22 4RJ

TENANT

Mr David Begbie

NAME AND ADDRESS OF LANDLORD	AGENT
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Castle Rock Edinvar Housing Association
1 Hay Avenue, Edinburgh, EH16 4RW

DESCRIPTION OF PREMISES

Semi-detached, single storey dwellinghouse in quiet residential street, built approximately 90 years ago. Brick-built with harled finish and slated roof. Accommodation comprises living room two bedrooms, bathroom and kitchen. Good-sized area of garden ground. No garage or off-street parking. Gas central heating. Double glazing.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRPERSON	George Clark
SURVEYOR MEMBER	Ian Mowatt
HOUSING MEMBER	Christine Anderson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 5,600.00 p.a.	22 August 2013	22 August 2013

G Clark

George Clark,
Chairperson of Private Rented Housing Committee
22 August 2013



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

21 Abbey Grange, Newtongrange EH22 4RJ

INSPECTION:

22 August 2013

STATEMENT OF REASONS

INTRODUCTION

1. This is a reference to the Private Rented Housing Committee for the determination of a fair rent under the Rent (Scotland) Act 1984 by the landlord, Castle Rock Edinvar Housing Association, 1 Hay Avenue, Edinburgh EH16 4RW ('the landlord'), in relation to the property known as 21 Abbey Grange, Newtongrange EH22 4RJ.
2. The rent paid by the tenant, Mr David Begbie ('the tenant') in respect of the property under a Scottish Secure Tenancy Agreement dated 21 November 2005, was £2,243.04 per year and the present rent £2,787.96 per year. The landlord applied for a rent of £4,409.88 per year for the property. The Rent Officer determined a rent of £4,000 per year. The tenant referred the Rent Officer's determination to the Private Rented Housing Committee.
3. The tenant attended the inspection, but the landlord was not present or represented at the inspection. Following the inspection, a hearing was held at Middleton Village Hall, North Middleton, Gorebridge. The tenant attended the hearing, but the landlord was not present or represented at the hearing.
4. The Committee comprised

Chairman	George Clark
Surveyor	Ian Mowatt
Housing Member	Christine Anderson

THE DOCUMENTATION

5. The Committee considered all the documents referred to it by the parties. In particular, the application and the written representations from both the tenant and landlord. It also considered evidence obtained from property

websites as to 2-bedroomed properties currently available for let in the Newtongrange area.

THE INSPECTION

6. The inspection took place on 22 August 2013. The Chairman introduced the Committee. The Committee proceeded to inspect the property.

DESCRIPTION OF THE PROPERTY

7. The property is a semi-detached, single storey dwellinghouse, built of brick with a harled finish and a slated roof. The accommodation comprises living room, two bedrooms, bathroom and kitchen. There is a good-sized area of garden ground to the rear. There is no off-street parking. The property is situated on a quiet residential street in Newtongrange and close to local amenities and is approximately 90 years old. The windows throughout are double glazed. The property has gas central heating with a back boiler and is in excellent decorative order.

THE HEARING

8. Following the inspection, the Committee held a hearing at Middleton Village Hall, North Middleton, Gorebridge. The tenant attended the hearing. The landlord was not present or represented at the hearing. The tenant advised the Committee that he and his wife had lived in the property since 1982. The central heating had been installed in 1983/84, with the tenant contributing to the cost by means of deductions from wages over a period and, at approximately the same time, the property had been rewired by the then landlord, The National Coal Board. The present landlord had replaced the kitchen fittings (but the tenant had replaced the worktops), and had replaced the bathroom with a wet room. The landlord had also renewed the harling, The tenant had installed fitted wardrobes in the front bedroom and had provided all the floorcoverings. The white goods belonged to the tenant.

DECISIONS AND REASONS

9. Section 48 of that Act as amended provides that:

48.— Determination of fair rent.

(1) *In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the private rented housing committee, subject to the provisions of this section, to have regard to all the 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 dwelling-house in question and to its state of repair and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture.*

(2) *For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.*

(3) *There shall be disregarded—*

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and

(b) any improvement (including any improvement to the furniture provided for use under the tenancy), or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his, and

(c) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

(4) *In the application of this section to a converted tenancy, the references in subsection (3) above to the tenant under the regulated tenancy shall include references to the tenant under the tenancy before the conversion.*

In terms of section 48(1) of the 1984 Act, the duty of the Committee when determining what rent would be a fair rent under a regulated tenancy, is to;-

“have regard to all the circumstances, (other than personal circumstances), and, in particular, to apply their knowledge and experience of current rents of other comparable property in the area, as well as having regard to the age, character and locality

of the dwelling house in question and to its state of repair and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture”.

Disrepair or defects attributable to the tenant should be disregarded, as should any improvements made by the tenant, otherwise than in pursuance of the terms of the tenancy (section 48(3)). Improvements by the landlord should be taken into account. In reaching its determination, the Committee complied with its duty as set out above.

The Committee considered carefully all the evidence presented, together with the observations made by the tenant and Committee members at the inspection. In particular, the Committee considered carefully which of the three alternative methods of ascertaining a fair rent was most appropriate in this case.

The three accepted methods used in Scotland are;-

- (a) determining a fair rent by having regard to registered rents of comparable houses in the area;
- (b) taking market rents and then discounting for any scarcity element and making any appropriate disregards as required by section 48(3), or;
- (c) calculating the appropriate return based on the capital value of the property, taking into account the element of scarcity. None of these methods is regarded as being the primary method, and the method chosen by the Committee will depend in each case upon the evidence available.

10. The Committee was aware of the need to proceed on the basis of the best available evidence, using other available evidence as a check where possible. The Committee had the benefit of its own knowledge and experience of the rents passing and being asked in the local market. In these circumstances, the Committee decided that the best method to use in this case was the market rent less any discount for scarcity method at (b) above.

11. The Committee from its own experience, knowledge and information available on the internet and from local letting agents considered that comparable properties for the open-market rental of 2-bedroomed properties in the Newtongrange area averaged around £550.00 per calendar month (£6,600 per annum). At the hearing, the tenant had advised that he was aware of one comparable property in the area which had a registered rent, but the Committee decided not to have regard to that one comparable, as the Committee had determined to adopt the approach outlined in paragraph 14 above.

12. The concept of scarcity is an essential feature of the fair rent scheme under the Rent (Scotland) Act 1984. It is contained within section 48(2) of that Act. The principle behind the inclusion of this section was that tenants "*in a situation of scarcity of supply*" (in other words, where there are more prospective tenants than available houses) should be protected from market forces. It is this factor that distinguishes a fair rent under the 1984 Act from an open market rent. Section 48(2) requires that a neutral market with no scarcity of houses be assumed. In that situation, prospective tenants can be assumed to be willing to pay only what the property is worth, with no additional premium being paid in order to secure a property that is difficult to come by. If that situation does not exist, and there is a shortage of houses, (thus artificially pushing up rents) then section 48(2) requires that the tenant be protected from the financial implications of that.

13. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the Newtongrange area, there could not be said to be scarcity of similar properties to let at the present time. The Committee was satisfied that no deduction required to be made in relation to scarcity for this type of property at this point in time.

14. The Committee considered that a number of deductions should be made to reflect improvements carried out by the tenant, namely a contribution to the cost of the installation of gas central heating, redecoration throughout and the installation of new worktops in the kitchen, and to take into

account that the landlord might expect to have to make in the event of re-letting the property to a new tenant. The Committee considered that the appropriate market rent in respect of the property was £6,600.00 per year. The Committee further considered that a deduction was appropriate of £1,000.00 per year in respect of improvements carried out by the tenant and of improvements which would be required to the property were it to be re-let.

15. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was **£5,600.00** per year. In reaching this decision, the Committee had regard to all the evidence, and to all the circumstances that must be taken into account in terms of section 48 of the Rent (Scotland) Act 1984. The Committee was mindful of the fact that the landlord, as a social landlord, might assess the rental it sought to charge on a basis different from open-market rental, but the Committee was bound to follow the procedure laid down by statute for determining a Fair Rent.

G Clark

George Clark

Solicitor

Chairman

Private Rented Housing Committee

22 August 2013