

**PRIVATE RENTED HOUSING PANEL****Housing (Scotland) Act 1988****Register Of Rents Determined Under Short Assured Tenancies****REFERENCE NO.**

PRHP/RS/16/0013

APPLICATION RECEIVED

18 January 2016

ADDRESS OF PREMISES

Huntshaw Mains, Huntshaw, Earlstoun, Scottish Borders, TD4 6AF

TENANT

Mr Pankaj Patel, Ms Kim Patel

NAME AND ADDRESS OF LANDLORDMr Richard Oliphant
11/1 Portland Place, Edinburgh, EH6 6LA**RENTAL PERIOD**

12 Months

DATE TENANCY COMMENCED

14 December 2015

DESCRIPTION OF PREMISES: The property is a detached, stone-built and roughcast, two-storey dwellinghouse with a slated roof, in a rural location approximately one mile outside the village of Earlstoun in Scottish Borders. The accommodation comprises, on the ground floor, 2 public rooms, a breakfasting kitchen, toilet and cloakroom and, on the first floor, 4 double bedrooms (two of which share a "Jack and Jill" shower room) and a bathroom with bath and corner shower. The property has mains water and mains drainage and land extending to approximately one acre, which could be used for grazing.

SERVICES PROVIDED

None

COMMITTEE MEMBERS**CHAIRPERSON**
SURVEYOR MEMBER
HOUSING MEMBERGeorge Clark
Mike Links**PRESENT RENT**

£950.00

DETERMINED RENT**£850****DATE OF DECISION**

30 March 2016

EFFECTIVE DATE

14 May 2016

Chairperson of Private Rented Housing Committee
30 March 2016



STATEMENT OF REASONS

by

PRIVATE RENTED HOUSING COMMITTEE

**Statement of Reasons in respect of a reference to the PRHP for a
Determination of the market rent under The Housing (Scotland) Act 1988
Huntshaw Mains, Huntshaw, Earlston TD4 6AF**

PRHP Ref: PRHP/RS/16/0013

Introduction

- 1 This is a reference to the Private Rented Housing Committee ("the Committee") in respect of Huntshaw Mains, Huntshaw, Earlston TD4 6AF ("the property").

The Landlord is Richard Oliphant, 11/1 Portland Place, Edinburgh EH6 6LA ("the Landlord") and the Tenants are Pankaj Patel and Ms Kim Patel, who reside at the property ("the Tenant").

- 2 The current rent for the property is £950 per calendar month (£11,400 per annum). The tenancy is a Short Assured Tenancy which commenced on 14 December 2015. The reference by the Tenant to the Private Rented Housing Committee is by way of an application in Form AT4 for the Determination of Rent under Section 24(3) and Section 34(1) of The Housing (Scotland) Act 1988. The date of the Tenant's application is 18 January 2016.

The Inspection

- 3 The Committee inspected the property on the morning of 30 March 2016. The Committee comprised George Clark (Chairman) and Mike Links (surveyor member)

The property is a detached, stone-built and roughcast, two-storey dwellinghouse with a slated roof, in a rural location approximately one mile outside the village of Earlston in Scottish Borders. The accommodation comprises, on the ground floor, 2 public rooms, a breakfasting kitchen, toilet and cloakroom and, on the first floor, 4 double bedrooms (two of which share a

"Jack and Jill" shower-room) and a bathroom, with bath and corner shower. The property has mains drainage and mains water.

The property has approximately one acre of garden/grazing to the front and there are pleasant views across rolling countryside towards the village of Earlston from the front of the property.

There is a coal fire in the living room, and the property has an oil-fired central heating system, which also provides hot water, backed up by an immersion heater.

The windows of the property are double glazed units, but a number of the units are misted and "blown" and should be replaced. The roof of the property requires some maintenance and repair. The toilet in the bathroom does not appear to flush. There is evidence of penetrating damp in one of the bedrooms.

The property is let unfurnished, but the white goods, comprising the dishwasher, fridge-freezer and freezer were provided by the landlord, as were the floor coverings. The washing machine was provided by the tenant. One of the ground floor public rooms is uncarpeted.

No services are provided by the Landlord.

The property has a gross internal floor area of approximately 205 square metres.

The nearby village of Earlston has adequate local shopping and a primary and secondary school. The general amenities in the area are good.

Written Submissions

- 4 Both parties had submitted written representations in advance of the hearing and had requested to attend the hearing, which was held at Ormiston Institute, Melrose, following upon the inspection. The Tenant, Mr Patel, attended the hearing. The Landlord attended the hearing and was accompanied by Laura Pellet, who had project-managed the refurbishment of the property between October and early December 2015, immediately prior to the commencement of the tenancy.

The Committee carefully considered the written documentation before it:-

- (a) Form AT4 prepared by the Tenant dated 18 January 2016.

- (b) Written submissions from the Landlord dated 9 February 2016 in which the Landlords gave information on comparable rents within the neighbouring area of the property.
- (d) Written submissions from the Tenant dated 10 and 11 February 2016 in which the Tenant also gave information on comparable rents within the neighbouring area of the property.

Evidence Submitted on Comparable Market Rents

- 6 The Tenant submitted that the rent should be reduced from its present level of £950 per calendar month ("pcm") and told the Committee that he had ascertained that the previous tenant had paid a rental of £675 pcm. It was, he contended, impossible to deduce that the opening of the Borders railway could justify a rent increase of 41%, as the nearest station was 10 miles away. The Tenant submitted to the Committee certain information in relation to asking rents for other houses in the locality of the property.

The Landlord also provided comparable rents of other houses within the locality of the property. He also advised the Committee that, whilst the rent paid by the immediately preceding tenant had been £675 pcm, the property had been let out to the tenant prior to that at £800 pcm. He told the Committee that there had been 9 notes of interest when he had advertised the property for rental and provided written evidence by way of an e-mail from the letting agents dated 11 January 2016.

7 Decision

The Committee noted the written representations made by the parties, but concluded that much of the content related to the differences of opinion as to the condition of the property and difficulties that had arisen between the parties in relation to alleged defects and to repair works. The Committee took into account, when fixing the rent, the present condition of the property, but advised the parties that its role was limited to determining the rent and that any dispute relating to an alleged failure to meet the repairing standard would involve a separate application to the Private Rented Housing Panel under Section 22 of the Housing (Scotland) Act 2006.

The Committee also considered the e-mail from the letting agent dated 11 January 2016. The Landlord had stated that there had been 9 "notes of interest", but the Committee noted that, in relation to 3 of them, the agents had been unable to contact the prospective tenants who had

made on-line enquiries. This still left 6 parties who had requested viewings, but the Committee had no evidence that any of these leads resulted in a viewing, so was unable to conclude that this evidence demonstrated that the property would have been let at the asking rent of £950 pcm.

The Committee considered all the evidence relating to current market rents submitted by both the Landlord and the Tenant. In particular, the Committee noted a 4 bedroom detached house in Oxnam, which had been on the market since September 2015 at £950 pcm, but which was not yet let. Enquiries made by the Committee disclosed that the asking rent has been reduced to £920. It also appeared from the on-line particulars, to be better appointed than the property and it had a large sun-room extension.

A detached farmhouse in Duns, with similar amenities, albeit an enclosed garden rather than grazing land.. It had been advertised at £800 pcm, but, on enquiry, the Committee found that it had in fact been let out at £700 pcm in February 2016, having been on the market since October 2015. This indicated to the Committee that, in the present market, there is scope for negotiation on rent.

The Landlord provided, as a comparable, a house in Earlston at £1,400 pcm, but the Committee noted that it had substantially more accommodation than the property and the Committee made its own enquiries and ascertained that it is a modern house still on the market and is significantly superior to the property. A further comparable provided by the landlord was a 4 bedroom house in St Boswells at £985 pcm, but it was located within the village and was not in a rural location, so did not offer a useful direct comparison.

The Tenant had also provided the Committee with comparables, some of which were also given by the Landlord. They included a 4 bedroom town house in Newtown St Boswells at £625 pcm, but there was no mention in the particulars of garden ground, so the Committee concluded that the garden was not substantial. A 4 bedroom detached house in Selkirk was on the market at £600 pcm, but again the garden ground was limited and, as with the Newtown St Boswells house, no pets were allowed. A house near Jedburgh was available at £550 pcm, but it was semi-detached and only one dog or cat was permitted. The Tenant offered other comparables, but they were mainly modern houses, so did not provide direct comparisons to the property.

Using their own knowledge and experience and having regard to the information available, the Committee considered that the market rent for a similar house in the locality of the property would be in the region of £750 per month (£9,000). The Committee did, however consider that it was appropriate to take account of the fact that the property had substantial grazing land and that, as a result, it might be of appeal to a wider market and, in particular, to people with

pets and/or other animals. The Committee considered that this factor would affect the rental that would be achievable for the property on the open market in its current condition.

No services are provided by the Landlord, so there were no additional factors to be taken into account and the comparable evidence provided by the parties demonstrated that there was no scarcity of 4 bedroom houses available for let in the area. The Committee was satisfied that there is a sufficient number of similar houses in the locality let on assured tenancies and that the rent payable under the short assured tenancy under consideration is significantly higher than the Landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the tenancies of similar house in the locality. Accordingly, the test provided by Section 34(3) of the Housing (Scotland) Act has been met and the Committee is able to make this determination.

Having taken all factors into account the Committee determined that the current market rent for the property is £850 per month (£10,200 per annum).

The Committee determined that the rent should be varied with effect from 14 May 2016.


.....
(Chairperson)

30 July 2016
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(Date)