

**PRIVATE RENTED HOUSING PANEL****Housing (Scotland) Act 1988****Non-determination for Short Assured Tenancy****REFERENCE NO.**

PRHP/RS/16/0249

APPLICATION RECEIVED

20 July 2016

ADDRESS OF PREMISES

Woodhead Farmhouse, Penpont, Thornhill, DG3 4BN

TENANT

Mr Ian Riches, Mrs Elaine Riches

NAME AND ADDRESS OF LANDLORD

Buccleuch Estates Limited

AGENTQueensberry Estate
Estate Office
Drumlanrig Mains, Thornhill, DG3 4AG**RENTAL PERIOD**

6 months and month to month thereafter

DATE TENANCY COMMENCED

16/09/2014

DESCRIPTION OF PREMISES

The property is a two storey detached grey stone farmhouse with slate roof in an elevated position with panoramic views of the surrounding countryside. The accommodation comprises two public rooms, conservatory, kitchen, utility room and shower room on the ground floor and three double bedrooms and bathroom on the upper floor. There is a cellar to which the Tenant has no access. To the front of the house is a grassed area and to the rear and side a hard standing. The boundaries are well defined. The vehicle and pedestrian access to the property is by private track which is also used by an adjoining farm. The house has double glazed windows and oiled fired central heating. The house has a gross internal floor area of 168 sq m or thereby.

SERVICES PROVIDED

None

COMMITTEE MEMBERS**CHAIRPERSON**

Aileen Devanny

SURVEYOR MEMBER

George Campbell

HOUSING MEMBER**PRESENT RENT**

£750.00 per calendar month

The Private Rented Housing Committee did not make a determination when they considered the matter on 15 September 2016.

Remarks**Section 34(3)(b) of the Housing (Scotland) Act 1988 applies****Date 15 September 2016**

A. DEVANNY

Chairperson of Private Rented Housing Committee



Statement of Decision of the Private Rented Housing Committee

Under Section 34 of the Housing (Scotland) Act 1988

In connection with the Property

**Woodhead Farmhouse, Penpont, Thornhill DG3 4BN
(hereinafter referred to as "the property")**

Reference PRHP/RS/16/0249

The Parties -

Mr Ian Riches and Mrs Elaine Avril Riches, residing at the property ("the Tenant")
Buccleuch Estates Limited c/o Queensberry Estates ("the Landlord")

Background

This is an application by the Tenant to the Private Rented Housing Panel ("PRHP") under Section 34(1) of the Housing (Scotland) Act 1988 ("the Act") in respect of the property. The tenancy is a short assured tenancy for a period of six months from 16 September 2014 and from month to month thereafter.

In the application the Tenant complained of disrepair in the property, namely the conservatory leaking roof resulting in damp which prevented use.

The matter was referred to a Private Rented Housing Committee ("the Committee") and both parties were invited to make written representations and were notified of the date and time of the inspection of the property and oral hearing.

The Tenant indicated that no written representations would be submitted. The Landlord submitted written representations in a letter dated 5 August 2016. The letter provided details of the property and the tenancy. The tenancy was entered into in 2014 at a rent of £750 per calendar month (pcm) and a copy of the letting particulars was lodged and formed part of the evidence. The Landlord explained that in March 2016 the rent was temporarily reduced from £750 pcm to £700 pcm due to the inconvenience caused to the Tenant by repair works to the conservatory. This reduction continued until the works were complete at which point the rent returned to £750 pcm. A copy of the offer of reduction of rent and the Tenant's acceptance of this arrangement was provided.

located at considerable distance to the property and as such is not an appropriate comparable.

Hearing

A Hearing before the Committee took place at Auldgirth Village Hall following the inspection. Present at the Hearing was the Landlord's representatives, Mr Nisbet and Ms McGinley. The Tenant did not attend.

The Committee had the following documents before it:

Copy of the Form AT4 dated 15 July 2016

Copy of Short Assured Tenancy dated 6 and 10 September 2014

Copy of Form AT5

Copy representations for the Landlord dated 5 August 2016 with attachments

Copy comparables produced by Committee and copy of a very recent decision of another Private Rented Housing Committee of a property at Addiewell, Glasgow Road, Sanquhar DG4 6BZ which may be a possible comparable. This decision was handed to the parties prior to the inspection.

Mr Nisbet indicated that the conservatory has been repaired and there was a written agreement by the Tenant to a temporary reduction in rent which was to return to the original rent on completion of the works. He also pointed out that the rent was agreed at inception of the tenancy agreement and considered it contrary to the contractual tenancy that the Tenant now challenged the rent.

He explained that an application by the tenant for a determination as to whether the house met the repairing standard in terms of Section 13(1) of the Housing (Scotland) Act 2006 had been withdrawn by the Tenant but nonetheless the application had been "a wake-up call" for the Landlord and he indicated that the dampness identified at the inspection would be investigated. Although, the dampness was of concern, he did not believe that it impacted on the rental income for the property nor caused a health hazard to the Tenant.

Turning to the comparables before the Committee, Mr Nisbet did not consider that the comparables provided by the Committee were persuasive as they did not reflect similar types of houses to Woodhead Farmhouse. One of the comparables related to a modern property in Sanquhar which is not as desirable a location as the location of Woodhead Farmhouse. He indicated that the comparables provided in the Landlord's written submissions which ranged from £700 to £825 pcm for a house with 2 public rooms, 3 /4 bedrooms and in some instances a conservatory are the best evidence of market rents of similar type properties in the location of the house and these comparables supported a market rent of £750 pcm for the property. He confirmed that the listed comparables in the Landlord's written representations were of actual rents achieved for unfurnished lets.

The Committee is mindful of Section 34(3) of the Housing (Scotland) Act 1988:-

"Where an application is made to a rent assessment committee under subsection (1) above with respect to the rent under a short assured tenancy, the committee shall **not** make such a determination as is referred to in that subsection unless they consider—

(a) that there is a sufficient number of similar houses in the locality let on assured tenancies (whether short assured tenancies or not); and

(b) that the rent payable under the short assured tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above."

The Committee considered most carefully the written documentation before it and considers that the comparables provided by the Landlord in written representations most accurately reflects similar houses let in the locality of Woodhead Farmhouse and satisfied the requirements for sufficient evidence in Section 34 (3)(a).

These comparables support that similar houses in the locality of Woodhead Farmhouse have a level of market rent under short assured tenancies of £750 pcm. The Committee observed that even if the lowest rental comparable provided by the Landlord of £700 pcm were to be taken as the rental level of the property, this is less than 10% below the sum of £750 which is not a significant sum. Therefore, the rental figure of £750 pcm presently payable under the tenancy for the property is not significantly higher than the rent which the Landlord might reasonably expect and Section 34(3) (b) of the 1988 Act requires that the Committee must not make a determination of rent for the property.

A. DEVANNY

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Chairperson,
15 September 2016

**Photographs taken at Woodhead Farm, Penpont, Thornhill DG3 4BN
on 15 September 2016 (RS/16/0249)**



01 - Front Elevation (south)



02 - Rear Elevation (north)



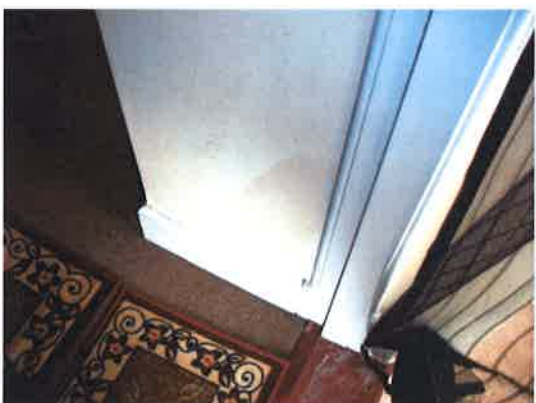
03 - Rear Elevation



04 - Porch - Dampness in SE corner



05 - Porch - high moisture meter



06 - Front Wall at porch - dampness



07 - Stairway - dampness (above stair stringer)



08 - Bathroom - cracking at duct



09 - Main electrics board