



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G52/621	28 January 2008	Landlord

ADDRESS OF PREMISES

42 Innerwick Drive, Glasgow, G52 2HY

TENANT

Miss M Kelly

NAME AND ADDRESS OF LANDLORD

Scottish Prudential Investment Assoc. Ltd.

AGENT

Hacking & Paterson
1 Newton Terrace
Glasgow
G3 7PL

DESCRIPTION OF PREMISES

Upper cottage flat within two storey block of four flats circa 1930 with gas central heating and double glazing comprising four rooms, kitchenette and bathroom with relative garden grounds.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
PROFESSIONAL MEMBER
LAYMEMBER

Mrs I Montgomery BA(Hons) NP
Mr M Links FRICS
Mr S Campbell

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 5400.00 p.a.	3 April 2008	3 April 2008

I Montgomery

Chairman of Private Rented Housing Committee

3rd April 2008

Date

**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS
INSPECTION AND DECISION: 3rd APRIL 2008**

**PROPERTIES: - 6 Cottage Flats situated at
8 Bucklaw Terrace, Glasgow G52 3BP;
191 Tweedsmuir Road, Glasgow G52 2ED;
42 Innerwick Drive, Glasgow G52 2HY;
155 Talla Road, Glasgow G52 2BA;
176 Talla Road, Glasgow G52 2BA;
271 Talla Road, Glasgow G52 2AX;**

INTRODUCTION

1. The Committee comprised Mrs I.R. Montgomery (Chairman), Mr M. Links (Surveyor) and Mr S. Campbell. The landlord is Scottish Prudential Investment Association Ltd, represented by Hacking and Paterson, 1 Newton Terrace, Charing Cross, Glasgow G3 7PL. The tenants of the six houses in the order as listed above are Mr A McF. Campbell, Mrs J Fleming, Miss M Kelly, Miss D Rae, Mrs M Morris, and Mr J. Motherwell. This reference to the Private Rented Housing Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 (hereinafter referred to as "the 1984 Act") in respect of the six properties arises from dissatisfaction on the part of the landlord.
2. The previous rent for the properties varied between £3,520 and £3,670 per annum. The landlord applied for rents of £5,000 per annum. The rent determined by the Rent Officer effective from 22nd January 2008 was £4,200 per annum for all six houses.

DESCRIPTION OF THE PROPERTY

3. On 3rd April 2008, the Committee, accompanied by the Clerk, Mr Robert Shea, inspected the six properties, all of which are cottage flats forming part of two-storey blocks of four flats. We were unable to gain access to the flats at 42 Innerwick Drive and 271 Talla Road and accordingly only an

external inspection of these properties could be carried out. The houses at 191 Tweedsmuir Road and 155 Talla Road are lower flats and the other four properties are upper flats. They are all of the same size, style and general lay out, although individual tenants have made different use of the space available. There is a small room off the sitting room which some tenants use as a single bedroom and others use as a dining room. There is garden ground to the front and rear of the property. The division of the garden ground varied, but generally the lower flat has the exclusive use of the front garden and a share of the rear garden ground, while the upper flat has ground to the side and rear. The properties are situated in the well-established residential suburbs of Cardonald and Hillington and are very conveniently located for access to shops and transport.

4. The properties were built circa 1930, and are of a design common in Glasgow. The largest room of each property is accessed from the entrance hall. It is of good size and has a triple bay window. Some tenants use this as a living room or lounge, while others use it as a bedroom. There is a cupboard in one corner. Each property also has a sitting room from which, on one side, is accessed a kitchenette (approximately 6'6" square) and, on the other, a small room (approximately 6'6" x 12'), which is adequate for use as a single bedroom or a dining room and has one window. In some of the properties the kitchen had been upgraded but where this had been done it had been done by the tenant. The bathroom in each property has the benefit of natural ventilation and light from a window, and the bathroom suite is functional. There is no shower unless the tenant has added one. The bedroom in each flat has one window and is a good sized double room.
5. The properties did not appear to have been comprehensively rewired and the Committee considered that it was unlikely to meet the standards set by current Regulations. One tenant specifically complained that the wiring was old and not up to modern standards. However, the Committee did not consider that it appeared to be dangerous, **although we recommend that it be thoroughly checked by a qualified electrician.**

6. The properties fell into two distinct categories. Four of the houses had central heating and double-glazing and two (155 Talla Road and 271 Talla Road) did not. We noted that 155 Talla Road did have one double-glazed window but we did not consider that one such window would have any material effect upon the rental value of the property.

7. A central heating system has been installed under the Scottish Government EAGA scheme in three of the four houses with central heating. The fourth house we could not gain access to, and therefore we do not know who installed the central heating. As it has not been established that this central heating system was a tenant's improvement, it does not fall to be disregarded under section 48 (3) (b) of the Rent (Scotland) Act 1984. Although we appreciate that the central heating systems installed under the EAGA scheme were not paid for by the landlord, the landlord does assume the responsibility of maintaining these systems after a limited period of time. These systems cannot be regarded as tenant's improvements as they were not paid for by the tenant, are not maintained by the tenant and the tenant has no right to remove the system from the property should the tenancy come to an end. That being so, these systems cannot be disregarded under section 48 (3) (b) of the Rent (Scotland) Act 1984. The properties must be valued as having the benefit of central heating. In the properties which had been double-glazed, this had also been done under a Government initiative or by the landlord. The double-glazing must also be included in the valuation.

8. The landlord was not represented at the inspection.

HEARING.

9. Neither party requested a hearing and so no hearing took place. The reference was determined on the basis of the documentary evidence produced and the observations of the Committee at the inspection. The Committee are entitled to use their knowledge and experience when determining a fair rent and duly did so.

DOCUMENTATION

10. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:
- a) Form RR1 for each property;
 - b) Notification from the Scottish Government of a Fair Rent appeal in respect of each property;
 - c) Letters from Hacking and Paterson dated 15th January and 4th February 2008;
 - d) Written representations form completed by the tenant of 155 Talla Road, dated 31st January 2008.

THE DECISION

11. 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))). There were no such defects in this particular case, nor was any furniture provided. Improvements by the landlord are taken into account. In reaching its determination, the Committee complied with its duty as set out above.
- 12 The Committee considered carefully all the evidence presented, together with the observations made by the 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.

13 Mindful of the observations by the Lord President in **Western Heritable Investment Co. Ltd v Hunter (2004)**, 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. In this case, no party had provided any specific evidence relative to rents passing in other comparable registered tenancies, nor had they provided any evidence of market rents actually passing in the market. The landlords' agent urged the Committee to have regard to previous RAC decisions, in particular that in case reference number RAC/G20/453 in relation to the issue of scarcity, but did not make specific reference to cases relative to the rent sought. As no evidence had been provided by the parties, the Committee had to apply their own knowledge and experience of current rents passing in the area, as they are empowered to do by section 48(1) of the 1984 Act.

14 The Committee was aware that a **prhc** decision had very recently been made in relation to a very similar property situated at 31 Thorncroft Road (reference number RAC/G44/614). The committee in that case determined a fair rent of £5,100 per annum with effect from 14th February 2008. The Committee had access to the Statement of Reasons in that case, which indicated that the Committee had found that the market rent for this type of property was £5,400 but had made a deduction to take account of the fact that the wiring was so substandard that the tenant had been unable to have a cooker installed. The Committee also had sight of three previous decisions made on 5th June 2007, in the cases of RAC/G44/576, RAC/G44/575, and RAC/G44/577, which also related to similar properties. These properties generally appeared to be in poorer condition than the six properties now under consideration. The external condition of the building was noted to be in a poor state of repair in two cases and the third

property was significantly affected by dampness. The Committee considered that these three properties were in poorer condition than the six properties now under consideration. We considered that the property at 31 Thorncroft Road was the closest comparable property as it was of the same size, style and state of repair apart from the fact that it had a problem with its wiring. As the Committee had clearly quantified this defect, this dissimilarity could easily be taken into account.

15 The Committee also had some knowledge of market rents passing in relation to similar properties in the area, which ranged from £450 to £530 per month. The Committee, however, did not have the detailed knowledge of the condition of these properties which we did with 31 Thorncroft Road, nor did we know precisely what was included in the rental figure paid. Most would be supplied with carpets, curtains and white goods which the properties now under consideration were not. These are matters which could have a significant impact on the rent paid.

16 Looking at all the evidence, the Committee concluded that the best method to adopt in this case was the comparable registered rent method, as we had a very similar recent **prhc** decision upon which to base our comparison. We considered the property at 31 Thorncroft Road to be very similar to the properties now under consideration. Although it is situated in Croftfoot and not Cardonald or Hillington, properties in these areas generally attract similar rental figures and therefore this difference is not significant.

17 In the Thorncroft Road case, the Committee found that the market rent for a property of the same size and general location as that property was £5,400 per annum. Using our knowledge and experience of the market, we concurred with that assessment. We considered that these properties were of the same size and general location as 31 Thorncroft Road. That being so, then unless any deduction for scarcity or disregards falls to be made, the market rent of £5,400 is also the Fair Rent for the properties now under consideration.

18 Section 48(3) requires that defects or issues of disrepair caused by the tenant, or improvements carried out by the tenant should be disregarded when valuing the property for the purpose of fixing a Fair Rent. This is because the tenant is not entitled to benefit from defects in the property for which he or she is responsible, and nor should he or she be penalised for improvements he or she has made. There were no issues of disrepair attributable to the tenant in these six cases and no furniture is provided. The Committee ignored the improvements made by the tenants when proceeding to value these properties.

19. 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.

20. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the area of Glasgow as a whole, 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. This was the same conclusion as had been made in the 31 Thorncroft Road case.

21. The Committee noted that the property at 31 Thorncroft Road had double-glazing and central heating. As previously stated, four of the properties now under consideration have these benefits, two do not. We considered that, all other things being equal, most people would pay more for a property with these benefits than one which did not. We considered that a deduction of £400 per annum should be made from the market rent figure of £5,400 to reflect the lack of these advantages.

22. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the properties with central heating and double glazing was £5,400.00 per annum, and a Fair Rent for the properties without central heating and double glazing was £5,000.00 per annum. In reaching this decision, the Committee had regard to all documentary and other evidence, and all the circumstances that required to be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

23. The Fair Rents were therefore determined as follows:-

8 Bucklaw Terrace, Glasgow G52 3BP	£5,400
191 Tweedsmuir Road, Glasgow G52 2ED	£5,400
42 Innerwick Drive, Glasgow G52 2HY	£5,400
155 Talla Road, Glasgow G52 2BA	£5,000
176 Talla Road, Glasgow G52 2BA	£5,400
271 Talla Road, Glasgow G52 2AX	£5,000

24. In section 49 of the Rent (Scotland) Act 1984, it is declared that the amount to be registered shall include any sums payable by the tenant for services. In this case no services are provided.

25. The effective date is 3rd April 2008.

Signed **I Montgomery**Chairman)
 Date 21st April 2008