



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

**Notification Of Decision By The Private Rented Housing Committee**

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G81/632	31 March 2008	Tenant

**ADDRESS OF PREMISES**

0/1 Scott Street, Dalmuir G81 4BT

**TENANT**

Mr J Cook

NAME AND ADDRESS OF LANDLORD	AGENT
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Dalmuir Park H.A.  
631 Dumbarton Road  
Dalmuir  
G81 4EU

**DESCRIPTION OF PREMISES**

Ground floor traditional tenement flat circa 1900 with double glazing comprising three rooms kitchenette and bathroom

**SERVICES PROVIDED**

T.V aerial, door entry, estate caretaker and lighting. (Non variable)

**COMMITTEE MEMBERS**

**CHAIRMAN**  
**PROFESSIONAL MEMBER**

Mrs I Montgomery BA(Hons) NP  
Mr A English FRICS

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£4,320 p.a.	9 June 2008	13 March 2008

Inclusive of services of less than 5%

**I Montgomery**

Chairman of Private Rented Housing Committee

9th June 2008

Date

# **PRIVATE RENTED HOUSING COMMITTEE**

## **STATEMENT OF REASONS**

INSPECTION: -9<sup>th</sup> June 2008

PROPERTY: -0/1, 8 SCOTT STREET, DALMUIR, CLYDEBANK G81 4BT.

### **INTRODUCTION**

1. The Committee comprised Mrs. I.R. Montgomery (Chairman) and Mr. A. English (Surveyor). The housing member was unable to attend due to illness. The Committee proceeded as a two member Committee in accordance with the terms of Schedule 4(6) of the Rent (Scotland) Act 1984.
2. The landlord is Dalmuir Park Housing Association Ltd., 631 Dumbarton Road, Dalmuir, Clydebank, G81 4EU. The tenant is Mr. James Cook. This reference to the Private Rented Housing Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 in respect of the ground floor traditional tenement flat at 0/1, 8 Scott Street, Dalmuir, Clydebank arises from dissatisfaction on the part of the tenant.
3. The previous rent was £2,186.00 per annum. The landlord applied for a rent of £2,577.12 per annum. The rent determined by the Rent Officer was £2,808.00 per annum.

### **DESCRIPTION OF THE PROPERTY**

4. On the morning of the 9<sup>th</sup> June 2008, the Committee attended at the property in order to carry out an inspection. We were unable to gain access to the property, as the tenant was not at home. As the inspection had previously been postponed at the request of the tenant, and no request for a further postponement had been received, the Committee proceeded to carry out an external inspection of the property and we reached our conclusions on the basis of that external inspection and all the available documentary evidence.

5. The property comprises a ground floor traditional tenement flat, built around 1900, which is located in a predominantly residential area. There is a public house situated at the corner of the tenement building, but this property is not immediately adjacent to it. There is a petrol services station on the opposite corner of Scott Street/Dumbarton Road. The property has good access to shopping and transport, and is very conveniently located close to Dalmuir train station. The tenement building is of four storey red sandstone construction with a tiled roof. The stone has not been cleaned and the stone above the ground floor bay windows shows evidence of water damage, although this does not appear to have had any adverse impact upon the integrity of the building. The small area of garden ground to the front of the property is overgrown, but the back court to the rear of the property was tidy and well maintained as at the date of the inspection. From such windows as could be seen, the property appeared to have the benefit of double glazing. The building has been refurbished and has been rewired. There is a secure door entry system which was operational at the date of the inspection.
6. According to the Form RR1, the accommodation extends to two bedrooms, a living room, kitchen and bathroom. The RR1 form is silent on the matter of heating. The extract from the Rent Register page indicates that there is a fixed shower in the bathroom.
7. Some services are provided by the landlord. These consist of a TV aerial, the door entry system, the services of an estate caretaker and lighting. The landlord indicates in the form RR1 that the cost of services is £128 per annum.
8. The landlord was not represented at the inspection.

## DOCUMENTATION

9. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:

- a) Form RR1 dated 8<sup>th</sup> February 2008;
- b) Letter of appeal from tenant dated 18<sup>th</sup> March 2008;
- c) Notification from the Scottish Executive of a Fair Rent appeal, dated 26<sup>th</sup> March 2008
- d) Written representations from the tenant dated 8<sup>th</sup> April 2008;
- e) Written representations from the landlords dated 11<sup>h</sup> April 2008.

## HEARING

10. As neither party had requested a hearing no hearing took place.

## 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)). We were not made aware of any such defects or improvements in this particular case, and no furniture is provided in terms of the tenancy. 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 external 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. In this case, neither party produced any evidence as to capital values, market rents or registered rents of comparable houses.
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, in the absence of any evidence from the parties, the Committee was obliged to rely on its own knowledge and experience of the rents passing and being asked in the local market. We did not have available to us any up-to-date evidence as to registered rents of comparable regulated tenancies. We proceeded to consider the case using the market rent less any discount for scarcity approach.
14. Using its knowledge and experience, the Committee considered that a market rent for an unfurnished two bedroom property of the type and in the locality of the present property, would be a minimum of £400 per month. The Committee had knowledge of another very similar two bedroom property also located in

Scott Street, which had been offered for rent at £403 per calendar month, and which was no longer available. The Committee also had knowledge of other similar properties in the area where higher rents than £400 per month were being asked. The Committee was aware that rents sought are a less reliable indicator than rents achieved, but was satisfied that £400 for an unfurnished flat with floor coverings and white goods was a readily achievable rent. However, the present property, being unfurnished and without white goods or carpets, would be unlikely to achieve that figure. We considered that there would be a degree of market resistance to a property where the incoming tenant would be faced with the costs of providing floor coverings and obtaining and installing white goods. We considered that a total of £40 per month should be deducted from the open market figure to take account of this factor, leaving a net figure of £360 per month. We then proceeded to consider whether any further deductions required to be made in terms of section 48(2) (the factor commonly referred to as "scarcity") or 48(3) (the factor commonly referred to as "disregards") of the 1984 Act .

15. 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.

16. 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. There may be a shortage of *Housing Association* properties available, but that is not the same thing, as social landlords do not seek to charge the full open market rent. 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.
17. 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 services are provided in relation to TV aerial, door entry, estate caretaker and lighting. These services amount to £128.00 which is less than 5% of the registered rent. That being so, the cost of the provision of these services does not require to be noted separately on the register. As the Tenancy Agreement was not produced and was not available to the Committee, the services must be recorded as being non-contractual and non-variable.
18. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £4,320.00 per annum inclusive of services of £128.00. 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.
19. It should be noted that any increase in rent imposed in consequence of this decision must be applied in accordance with the provisions of section 33 of the Rent (Scotland) Act 1984 and The limits on Rent Increases (Scotland) Order 1989 No 2469 (s168). These provisions specify the limits for the phasing in of significant increases.
20. The effective date is 13<sup>th</sup> March 2008.

Signed **I Montgomery** .....Chairman)  
Date 12th June 2008.....