

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
RAC/G41/588	16 May 2007	Landlord

ADDRESS OF PREMISES

1/3, 38 Westclyffe Street, Glasgow, G41 2EE

TENANT

Mr J Harper

NAME AND ADDRESS OF LANDLORD/AGENT

R S Gillies, per Hacking & Paterson, 1 Newton Terrace, Glasgow, G3 7PL

DESCRIPTION OF PREMISES

1st floor traditional tenement flat in 4 storey building C.1900 with gas central heating, comprising living room, bedroom, living kitchen and bathroom.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN	Mrs A Devanny LLB NP
PROFESSIONAL MEMBER	Mr M Links FRICS
LAY MEMBER	Mrs T Ahmed

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3,600.00 per annum	8 August 2007	8 August 2007

A Devanny

Chairman of the Rent Assessment Committee

8th August 2007
Date

RENT ASSESSMENT COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Tuesday 8 August 2007

Of the property

Flat 1/3, 38 Westclyffe Street, Glasgow G41 2EE
(hereinafter referred to as "the flat")

INTRODUCTION

A reference has been made to the Rent Assessment Committee for the determination of a fair rent of the flat under the Rent (Scotland) Act 1984 ("the 1984 Act").

The landlords of the flat are R.S. Gillies whose agents are Messrs. Hacking & Paterson, 1 Newton Terrace, Glasgow G3 7PL. The tenant of the flat is Mr. J Harper who has been tenant of the property for the last 30 years having succeeded to the tenancy held by his mother.

The annual rent for the flat was last registered on 30 May 2004 at the figure of £2550 per annum. On 5 March 2007 the landlords applied to have the rent increased to £3600 per annum. The Rent Officer determined the rent for the flat at the figure of £3000 per annum with effect from 30 May 2007.

The reference to the Rent Assessment Committee has been submitted by the landlords.

INSPECTION

The Committee inspected the flat on the morning of 8 August 2007. The tenant's wife was present throughout the inspection. No representative of the landlords attended.

The flat is located on the first floor of a four storey traditional sandstone tenement which was constructed circa 1900. The tenement has a tiled roof. There are three flats on each of the four storeys. There is a secure entry system to the communal close. The close, stairs and landings were litter free at the time of inspection and in fairly reasonable decorative

order and repair. The communal drying area to the rear was slightly untidy and is slabbed with a mature tree and some herbaceous plants and a hedge. The communal area to the rear is accessed to the rear of the common close.

The flat lies one up/three or right. The accommodation of the flat comprises a bay windowed living room, bedroom, living kitchen with former bed recess area, and bathroom. The fireplace and electric fire in the living room have been provided by the tenant. The kitchen is basic in nature with a gas fire provided by the landlords. The kitchen units and sink as well as the cooker and other appliances were supplied by the tenant. The bathroom also is basic although the landlords have replaced the sink and more recently the toilet and cistern. The tenant has supplied the bath, electric shower and the electric Dimplex heater in the bathroom. There are two cupboards in the hall. The flat has the original sash single glazed windows. Gas central heating and a fire alarm were installed three years ago with the benefit of a Scottish Executive grant which was available to the tenant. No services or furniture are provided by the landlords. The Committee noted the complaints of the tenant in relation to the cracking on the cornice and uneven floorboards. These defects are caused by uneven settlement and are not significant or unusual for this area of Shawlands.

Parking for the flat is on street and at the time of inspection there was spaces near to the property. The locality is residential with nearby shopping and leisure facilities, and good bus, road and rail links. The flat is situated in a pleasant street in the popular suburb of Shawlands.

HEARING AND DECISION

As no hearing had been requested, the Committee considered most carefully the written documentation before it, viz.: -

1. RRI Application for the flat dated 1 March 2007 and received by the Rent Officer on 5 March 2007.
2. Landlords' letter requesting the matter be referred to the Rent Assessment Committee dated 10 May 2007.
3. Notification of fair rent appeal from Rent Registration Service dated 14 May 2007.
4. Rent Register page.
5. Landlords' representations dated 18 May 2007.
6. Clerk's list of comparable properties.

The landlords' appeal is based on the climate of the current rental market and they state that there is equilibrium of supply and demand for properties of this type in this locality and in view of this, scarcity no longer needs to be taken into account. On that basis they suggest that a rent of £3600 per annum should be registered in respect of the flat which is more in keeping with the market rent.

The tenant made no representations.

No submissions with regard to the level of current market rents or return on capital value have been put forward by either the landlords or the tenant.

The Committee considered the documents referred to above. The Committee was mindful of the terms of Section 48 of the Rent (Scotland) Act 1984, which states

“The Committee shall have regard to all of the circumstances (other than person 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, and to the quantity, quality and condition of the furniture.” Paragraph (2) then provides that “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... is not substantially greater than the number of such dwelling-houses in the locality which are available for letting”. This provision is sometimes known as “the scarcity deduction”. The Committee were also mindful of the observations of the Lord President in **Western Heritable Investment Co LTD v Hunter (2004)** which requires the Committee to proceed on the best available evidence and the use of the other evidence as a cross check where possible.

The Committee acknowledged that there was significant evidence of comparable registered rents. There have been three recent referrals to the Rent Assessment Committee in relation to nearby properties in the last year. Rents of £3600 per annum were registered for each of two properties at Flat 1/1, 100 Deans ton Drive and Flat 3/2, 106 Deans ton Drive on 28 June 2007. Both these flats were comparable to the flat at 38 Westclyffe Street in condition and accommodation. The only difference is that the properties at Deanston Drive both had an additional small scullery and had electric central heating systems whereas the property in Westclyffe Street is in a more desirable street and had the advantage of a gas central heating system with a combination boiler. The Committee were of the view that balancing these factors that a rental figure of £3600 for Westclyffe Street would be consistent with the registered rents for the properties in Deanston Drive. The Committee considered the other recent decision of the Rent Assessment Committee relating to a main door flat at 30 Waverley Gardens where a rent of £4000 per annum was registered on 26 September 2006. This flat had similar accommodation to the flat at 38 Westclyffe Street although it benefits from slightly larger rooms, a small front garden and a main door entry. However, the flat at Waverley Gardens has no central heating and has not been rewired for 47 years. Comparing this property with the flat at Westclyffe Street, the Committee were of the view that the flat at Waverley Gardens would command a rent approximately 10% more than the property at Westclyffe Street because of its main door entry. This reinforced the Committee's view that a rental figure of £3600 for Westclyffe Street is appropriate. The Committee looked at the rent of Flat 1/1, 57 Minard Road, Glasgow, which was the only property on the Clerk's list of comparable registered rent properties where the rent was determined by the

Rent Officer. In that case the rent registered was £2950 per annum with an effective date of 29 May 2007. However, it was noted that this rent was not appealed to the Committee, and it was unclear whether a scarcity deduction had been taken into account. Therefore, the Committee was not convinced on the current validity and applicability of this comparable.

The Committee then went on to consider the market rents of similar flats located in the vicinity of the flat. There was evidence of a plentiful supply of similar sized properties for rent available in the area. The Committee accepted the landlords' submission that there is equilibrium of supply and demand for properties of this type in this location and no scarcity deduction should be made. There was no disrepair or defects attributable to the tenant, and, with the exception of the fireplace and electric fire in the living room, the bath, electric shower and Dimplex heater in the bathroom and the kitchen fittings and appliances provided by the tenant, no tenant's improvements were indicated which should be disregarded. There was evidence from internet sources of a well presented one bedroom unfurnished tenement flat at 11 Westclyffe Street being offered for let for £400 per month and another one bedroom furnished flat with white goods at Deanston Drive being let for £450 per month. The Committee considered that a deduction of £75 and £100 per month respectively should be made from these figures to reflect that the flat at 1/3, 38 Westclyffe Street is an unimproved property with the original windows and basic fittings and with no white goods or furnishings and with the aforesaid tenant's improvements.

The Committee believed that the best evidence in this case was provided by comparing registered rents of other similar protected tenancy properties and this was cross checked by considering market rents of similar flats located in the vicinity. The Committee, after considering all the available evidence and all matters required by the 1984 Act decided that the fair rent for the property was £300 per month, which equates to £3600 per annum. The Committee had no evidence of capital values of similar flats within the locality and, therefore, was unable to use this method to cross check the rental figure.

The decision takes effect from the Eighth day of August Two thousand and seven.

A Devanny

Chairperson,
8th August 2007