

**PRIVATE RENTED HOUSING PANEL****Rent (Scotland) Act 1984****Notification Of Decision By The Private Rented Housing Committee**

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
PRHP/RR/15/0309	23 November 2015	Tenant

**ADDRESS OF PREMISES**

1 Right, 252 Blackness Road, Dundee DD2 1RS

**TENANT**

Mr David Fair

**NAME AND ADDRESS OF LANDLORD**

M/s Dye and Rannie

**AGENT**Messrs I B Murray and Son  
87 Perth Road  
Dundee DD1 4HZ**DESCRIPTION OF PREMISES**

First floor flat in 4-storey stone-built and slate-roofed Victorian mid tenement. Accommodation comprises living room with kitchen area off, one bedroom and bathroom. Shared garden ground, cellar and dilapidated washhouse to rear. Single glazed windows. No central heating. Immersion water heater. Gross internal area 46 square metres approximately. Unfurnished let, White goods not supplied by landlord.

**SERVICES PROVIDED**

None

**COMMITTEE MEMBERS****CHAIRPERSON**  
**SURVEYOR MEMBER**George Clark  
Ian Mowatt

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3,300.00 p.a.	8 January 2016	1 March 2016

George Clark

Chairperson of Private Rented Housing Committee

8 January 2016



**PRIVATE RENTED HOUSING COMMITTEE  
STATEMENT OF REASONS**

**PRHP/RR/15/0309**

**PROPERTY:**

**1 Right, 252 Blackness Road, Dundee DD2 1RS**

**INSPECTION: 8 January 2016**

## **STATEMENT OF REASONS**

### **INTRODUCTION**

1. This is a reference to the Private Rented Housing Committee for the determination of a fair rent under the Rent (Scotland) Act 1984 by the tenant, David Fair, 1 Right, 252 Blackness Road, Dundee DD2 1RS ('the tenant'), in relation to the property known as 1 Right, 252 Blackness Road, Dundee DD2 1RS. The landlords are M/s Dye and Rannie, per their agents Messrs I B Murray and Son, 87 Perth Road, Dundee DD1 4HZ ('the agent').
2. The rent currently paid by the tenant, David Fair ('the tenant') in respect of property is £3,000.00 per year. The landlord applied for rent of £4,200.00 per year for the property. The Rent Officer determined a rent of £3,600.00 per year. The tenant referred the Rent Officer's determination to the Private Rented Housing Committee.
3. Only the tenant attended the inspection. Neither party requested a Hearing.
4. The Committee comprised

Chairman	George Clark
Surveyor	Ian Mowatt

### **THE DOCUMENTATION**

5. The Committee considered all the documents referred to it by the parties. In particular, the application and the written representations from both the tenant and the landlord's agent.

### **THE INSPECTION**

6. The inspection took place on 8 January 2016. The tenant attended the inspection. The landlord was not present or represented at the inspection.
7. The Chairman introduced the Committee to the tenant. The Committee proceeded to inspect the property.

## **DESCRIPTION OF THE PROPERTY**

8. The property is a first floor flat in a four storey Victorian stone built and slate roofed mid tenement of flatted dwellinghouses, comprising living room with kitchenette off, one bedroom and bathroom, and extending to a gross internal floor area of 46 square metres or thereby. The property faces onto Blackness Road in Dundee and is close to local amenities. There is a shared drying green to the rear and a shared cellar and external washhouse. The kitchenette is in a poor condition and contains a stainless steel sink and drainer, with a single cupboard beneath and one wall cupboard. The cooker was provided by the tenant. The property generally is in need of modernisation and the only heating is provided by an electric panel heater in the living room/kitchen. There is no form of heating in the bedroom. Water is heated by an immersion heater. The bathroom is dated and has a bath, but no shower or shower tap attachment. The windows are single glazed. The property is let unfurnished and all floor coverings were provided by the tenant. The landlord has not carried out any redecoration and the decorative condition is poor. There is no secure entry system to the tenement of which the property forms part. The washhouse to the rear is in a dilapidated condition and has no rental value.

## **DECISIONS AND REASONS**

9. Section 48 of that Act as amended provides that:

### ***48.— Determination of fair rent.***

*(1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the private rented housing committee, subject to the provisions of this section, to have regard to all the circumstances (other than personal 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, to the quantity, quality and condition of the furniture.*

*(2) 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 on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.*

*(3) There shall be disregarded—*

*(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and*

*(b) any improvement (including any improvement to the furniture provided*

*for use under the tenancy), or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his, and*

*(c) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.*

*(4) In the application of this section to a converted tenancy, the references in subsection (3) above to the tenant under the regulated tenancy shall include references to the tenant under the tenancy before the conversion.*

10. 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".*

11. 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)). Improvements by the landlord should be taken into account. In reaching its determination, the Committee complied with its duty as set out *supra*.

12. The Committee considered carefully all the evidence presented, together with the observations made by the tenant and 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.

13. 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.

14. 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. The Committee had the benefit of its own knowledge and experience of the rents passing and being asked in the

local market. In these circumstances, the Committee decided that the best method to use in this case was the market rent less any discount for scarcity method and after making any appropriate disregards at (b) *supra*.

15. The Committee from its own experience, knowledge and information available on the internet and from local letting agents considered that comparable properties for the rental of fully modernised, fully furnished one bedroom properties with separate kitchen, central heating, double glazed windows and a secure door entry system in the area of Dundee in which the property is situated averaged around £425.00 pcm. In arriving at this figure, the Committee noted that the survey carried out by Citylets for Quarter 2 of 2015 indicated that the average rent for a 1 bedroomed flat in Dundee was £397 pcm. There was evidence, some of it provided by the agent, of the letting of other flats, recently let or available for let, in the immediate vicinity of the property, with rents varying from £400 to £430 pcm. The evidence that the Committee had, however, indicated that these properties had central heating and double glazing, had separate kitchens and, in some cases, were fully furnished. One flat available for let at £350 pcm had a lounge with kitchenette off, one bedroom and a shower room, but it was part-furnished, had electric heating throughout and had a modernised kitchen and bathroom.
16. 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.
17. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the Dundee area 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.
18. The Committee considered that a number of deductions should be made to take account that any new tenant would require significant improvements to the property, including

complete replacement of the kitchen, upgrading of the bathroom, central heating, double glazing and floor coverings in the property, together with a secure entry system. The Committee considered that the appropriate market rent in respect of the property was £4,300.00 per year. The Committee further considered that a deduction was appropriate of £1,000.00 per year in respect of improvements which would be required to the property.

19. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was **£3,300.00** per year. In reaching this decision, the Committee had regard to all the evidence, and to all the circumstances that must be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

George Clark

Signed .. ..

George B Clark, Solicitor

Chairman

Private Rented Housing Committee

8 January 2016