



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

| REFERENCE NO: | OBJECTION RECEIVED | OBJECTION |
|---------------|--------------------|-----------|
| RAC/G40/604 | 18 October 2007 | Landlord |

ADDRESS OF PREMISES

1/2, 336 Cumbernauld Road, Glasgow, G31 3LZ

TENANT

Mrs R Lockerby

NAME AND ADDRESS OF LANDLORD

Lanero Property Co. Ltd.

AGENT

Hacking & Paterson
1 Newton Terrace
Glasgow
G3 7PL

DESCRIPTION OF PREMISES

First floor traditional tenement flat circa 1900 with double glazing comprising three rooms, scullery and bathroom.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
PROFESSIONAL MEMBER
LAYMEMBER

Mrs I Montgomery BA(Hons) NP
Mr M Links FRICS
Mr C Harvey MA

| FAIR RENT | DATE OF DECISION | EFFECTIVE DATE |
|----------------|------------------|-----------------|
| £ 3200.00 p.a. | 7 December 2007 | 7 December 2007 |

I Montgomery

Chairman of Private Rented Housing Committee

7th December 2007

Date

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

INSPECTION AND HEARING: -7th December 2007

PROPERTY: -1/2, 336 CUMBERNAULD ROAD, DENNISTOUN,
GLASGOW G31 3IZ.

INTRODUCTION

1. The Committee comprised Mrs. I.R. Montgomery (Chairman), Mr. M. Links (Surveyor) and Mr. C. Harvey (Lay member). The landlord is Lanero Property Co. Ltd, represented by Hacking and Paterson, 1 Newton Terrace, Glasgow G3 7PL. The tenant is Mrs R. Lockerby. 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 first floor traditional tenement flat at 1/2, 336 Cumbernauld Road, Dennistoun arises from dissatisfaction on the part of the landlord.
2. The previous rent was £1,990.00 per annum. The landlord applied for a rent of £3,200.00 per annum. The rent determined by the Rent Officer was £2,490.00 per annum.

DESCRIPTION OF THE PROPERTY

3. On the morning of the 7th December 2007, the Committee inspected the property which comprised a first floor traditional tenement flat. The tenement building was built around 1900, and is located in a mixed residential/commercial area with good access to shopping and transport. There are shop premises across the road. The tenement building is of four storey red sandstone construction. Externally, the building appeared to be in a fair state of repair, although green algae, probably caused by blocked gutters, was apparent on the stone near the top of the building. There has been settlement over the years but this appeared to be historic rather than recent. The roof is probably tiled, but this was not visible from street level. There is a

door entry system at the front of the building which was operational at the time of the inspection.

4. The accommodation extends to three rooms, a small scullery kitchen and a bathroom. The property has no central heating and is double glazed throughout. The lounge is large with a triple bay window and a pleasant open outlook over the road, bowling green and park. The tenant has supplied a gas fire. The room has the original attractive cornicing and ceiling rose. The bedroom is a good sized double bedroom with one window. The tenant has supplied her own heater. The scullery kitchen is very small and the landlord supplied only the traditional Belfast sink. It has a small window. The bathroom contains a bath, WC, wash hand basin and washing machine. The washing machine belongs to the tenant. The tenant replaced the wash hand basin and WC some years ago because the WC was leaking. Of the bathroom fittings and fixtures supplied by the landlord only the bath remains. The hallway is of good size and has a large walk in storage cupboard. The tenant has installed a burglar alarm and smoke detectors. The back court was tidy at the time of the inspection, although the grass would have benefited from being cut.
5. The landlord was not represented at the inspection.

DOCUMENTATION

6. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:
 - a) Form RR1 dated 29th August 2007;
 - b) Letter from Hacking and Paterson dated 11th October 2007;
 - c) Notification from the Scottish Executive of a Fair Rent appeal, dated 16th October 2007;
 - d) Written representations from the tenant dated 24th October 2007;
 - e) Letter from Hacking and Paterson dated 24th October 2007 enclosing written representations;

- f) List of three recently registered rent decisions provided by the clerk plus details of these properties.

HEARING

7. As neither party requested a hearing no hearing was held.

THE DECISION

8. 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.
9. 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. In this case, neither party produced any evidence as to capital values or registered rents of comparable houses. The Committee did, however, have the benefit of three possible comparable registered rents, relative to properties of similar size and style within the Dennistoun area.

10. 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, the addresses of three registered rents of comparable properties had been provided by the clerk. These properties had all had their fair rents fixed by Rent Assessment Committees relatively recently, and Statements of Reasons for the decisions of each of these Committees was available to this Committee. The Committee therefore had the benefit of a considerable amount of relevant information regarding these properties. In this case, the Committee considered that determining a fair rent by having regard to registered rents of comparable houses in the area was the best method to use, using the market value method as a cross check.

11. The Committee considered carefully the evidence relative to the three of comparable properties. Although the descriptions of the properties varied as to whether these were described as two rooms plus living kitchen and boxroom/scullery to three rooms and kitchenette, the Committee concluded from considering the various Statements of Reasons that, in fact, the properties were very similar in size and style and only the internal layout of the properties differed. Although the Committee in the present case is assessing a three room property, the scullery kitchen is extremely small and incoming tenants would be likely to change the layout of the property to create

a larger kitchen area. We considered that there was little material difference between the two room and three room properties and we proceeded on that basis.

12. The property under consideration has double glazing but no central heating. The property at 22 Craigpark Drive had no ventilation in the bathroom and therefore did not meet the Tolerable Standard and the Committee determining the Fair Rent in that case had made an allowance to take account of that, and other factors. As this factor did not apply to the present property, we considered that the Fair Rent for this property should be higher than that fixed for 22 Craigpark Drive. We considered the closest comparable property to be 26 Garfield Street, which is similar in size, style and locality, and shares a similar layout to this property. That property had the benefit of central heating and the Committee adjusted to take account of that. The property at 12 Armadale Street also has double glazing and no central heating, however, it is a ground floor flat in a grey sandstone tenement and the Committee considered it to be a slightly less attractive property than the present property. We considered that a prospective tenant with the choice would prefer the present property. Having taken all these factors into account, we concluded that a Fair Rent for the property using this method would be £3,200 per annum.

13. We proceeded to consider open market rents as a cross check. Using our knowledge and experience of market rents in the area, we considered that a property without central heating would be unlikely to achieve an open market rent in excess of £400 per month. The present property is without central heating, floor coverings or any white goods and we considered that these factors would significantly reduce the amount which would be achieved on the open market. In particular, we considered that there would be significant market resistance to a property with no floor coverings or white goods, as purchasing and installing white goods and floor coverings would considerably

add to the prospective tenant's moving expenses. Adjusting to take account of these factors produced a market rent valuation compatible with that produced by the comparable registered rent method. The Committee 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").

14. 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.

15. 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. That being so, the Committee was satisfied that using the market value method as a crosscheck confirmed that the figure reached using the comparable registered rent figure was appropriate.

16. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £3,200.00 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.

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 no services are provided.

18. The effective date is 7th December 2007.

Signed **I Montgomery**Chairman)

Date 20th Dec 2007