



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

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

<b>REFERENCE NO:</b>	<b>OBJECTION RECEIVED</b>	<b>OBJECTION</b>
RAC/G42/607	5 November 2007	Landlord

**ADDRESS OF PREMISES**

0/1, 61 Daisy Street, Glasgow, G42 8HG

**TENANT**

Miss W Hoey

**NAME AND ADDRESS OF LANDLORD**

Sandford Property Partnership

**AGENT**

Hacking & Paterson  
1 Newton Terrace  
Glasgow  
G3 7PL

**DESCRIPTION OF PREMISES**

Ground floor traditional tenement flat circa 1900 with gas central heating comprising two rooms, living kitchen and bathroom.

**SERVICES PROVIDED**

None

**COMMITTEE MEMBERS**

**CHAIRMAN**  
**PROFESSIONAL MEMBER**  
**LAYMEMBER**

Mrs I Montgomery BA(Hons) NP  
Mr G Campbell FRICS  
Mr T Keenan

<b>FAIR RENT</b>	<b>DATE OF DECISION</b>	<b>EFFECTIVE DATE</b>
£ 3300.00 p.a.	14 February 2008	14 February 2008

**I Montgomery**

**Chairman of Private Rented Housing Committee**

Date

14th February 2008.

# **PRIVATE RENTED HOUSING COMMITTEE**

## **STATEMENT OF REASONS**

INSPECTION AND HEARING: -14<sup>th</sup> February 2008

PROPERTY: -0/1, 61 DAISY STREET, GLASGOW, G42 8HG.

### **INTRODUCTION**

1. The Committee comprised Mrs. I.R. Montgomery (Chairman), Mr. G. Campbell (Surveyor) and Mr. T. Keenan (Lay member). The landlord is the Sandford Property Partnership, which is represented by Hacking and Paterson, 1 Newton Terrace, Glasgow G3 7PL. The tenant is Miss W. Hoey. 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, 61 Daisy Street, Glasgow arises from dissatisfaction on the part of the landlord.
2. The previous rent was £2,300.00 per annum. The landlord applied for a rent of £3,750.00 per annum. The rent determined by the Rent Officer was £3,000.00 per annum.

### **DESCRIPTION OF THE PROPERTY**

3. On the morning of the 14<sup>th</sup> February 2008, the Committee inspected the property which comprised a ground floor traditional tenement flat. The tenement building was built around 1900, and is located in a residential area with good access to shopping and transport. The tenement building is of four storey red sandstone construction. The exterior of the building appeared to be in a reasonable state of repair and the roof is tiled. 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 two rooms, a living kitchen and a bathroom. The property has central heating which was installed under the Scottish Executive (now Scottish Government) EAGA scheme. The property is single glazed throughout. The living room is of good size with a

large window. The tenant has supplied a gas fire. The original ceiling rose and cornicing are still intact. The original bed recess area has been converted into a cupboard. The bedroom is a good sized double bedroom with one large window. The living kitchen is a spacious and bright room which can readily accommodate a kitchen table and four chairs. The tenant has replaced the original sink and wooden surface provided by the landlord with more modern kitchen units. She has also removed the original cooking range. The tenant has also upgraded the bathroom and has replaced the tin bath, and old fashioned WC and sink which were supplied by the landlord. The property has a large cupboard off the hallway, and the entrance door still has the original glass intact. The tenant has maintained the flat in good decorative order and repair throughout. She advised the Committee that she paints the windows and keeps the back court tidy. The back court was tidy and well maintained at the time of inspection.

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 17<sup>th</sup> August 2007;
  - b) Notification from the Scottish Government of a Fair Rent appeal, dated 2<sup>nd</sup> October 2007;
  - c) Written representations from the tenant dated 7<sup>th</sup> November 2007;
  - d) Letter from Hacking and Paterson dated 31<sup>st</sup> October 2007
  - e) List of recently registered rent decisions provided by the clerk plus details of these properties.

## **HEARING**

7. Neither party requested a hearing in this case and so the reference was determined on the basis of the observations of the Committee at the inspection and on the documentary evidence produced.

## 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.
  
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 address of

a possible comparable property had been provided by the clerk, namely a similar sized flat situated at 1/L, 27 Daisy Street, Glasgow. This property had had a fair rent fixed by a Private Rented Housing Committee (**prhc**) at an annual rent of £3,300 in February 2007. That Committee's Statement of Reasons was available to this Committee, and from that Statement, the Committee learned that the tenement building in which 1/L 27 Daisy Street is located was refurbished in 1994, at which time new wooden framed double glazed windows, stout self-closing wooden fire doors and modern bathroom and kitchen fittings had been installed. The flat had also been rewired and a smoke alarm connected to the mains electricity had been fitted. A gas central heating system had been installed in 2002 under the Scottish Executive EAGA programme. When reaching their decision as to the Fair Rent for 1/L 27 Daisy Street, the Committee had accepted that there was equilibrium of supply and demand in the housing market in the relevant area at that point in time and no scarcity deduction had therefore been made.

11. The landlords' representatives drew the attention of the Committee to this possible comparable property in their letter dated 12<sup>th</sup> November 2007. They submitted that the property at 1/L 27 Daisy Street is "*directly comparable in terms of accommodation and condition*" to the property now under consideration. They argued that, on that basis, the rent for the property now under consideration should be £3,750, presumably to take account of the passage of time since the decision was made in relation to 1/L 27 Daisy Street. The Committee noted, however, that during the refurbishment carried out in 1994, the property at 1/L 27 Daisy Street had had the benefit of a number of significant improvements, including double glazing, and the installation of new bathroom and kitchen furnishings. The property now under consideration does not have these advantages. The Committee considered that allowances would require to be made for these differences. Both properties had had central heating installed under the EAGA scheme and therefore the two properties are comparable in that respect.

12. The Committee, using its own knowledge and experience, were aware of a number of similar sized properties in the Govanhill area where rents of between £350 and £450 per month were being achieved on a market rent basis, or where flats were being offered for rent at around these prices. Some were available for let at the time of the inspection for as much as £475 per month. However, these were upgraded and fully furnished properties, which the property now under consideration is not. Those achieving the highest prices are generally the most desirable properties, either in terms of facilities or location.
13. Section 48(3) of the 1984 Act 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 this case and no furniture is provided. The Committee must ignore the improvements made by the tenant when proceeding to value this property. As the tenant had upgraded the fittings in the bathroom and kitchen, the Committee was therefore valuing a single glazed property with central heating but without the benefit of a modern kitchen or bathroom. (The central heating system must be taken into account because, as it was not paid for by the tenant and the tenant is not responsible for maintaining it, it cannot be disregarded as a tenant's improvement). The Committee considered that such a property would lie at the lowest end of the rental price range. Furthermore, this property is supplied unfurnished, and with no white goods or floor coverings. The Committee considered that these factors must be taken into account when considering a reasonable market rent figure for the property now under consideration.
14. Disregarding the tenant's improvements means that what is being valued is a single glazed property without white goods or floor coverings, with a most basic kitchen and and bathroom. The Committee considered that

there would be considerable market resistance to such a property in the private rented sector. Prospective tenants are likely to be reluctant to incur the high costs of laying floor coverings and installing white goods. We accordingly assessed the market rent for the property *in the condition at which it must be valued* as £275 per calendar month. That equates to an annual figure of £3,300. 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").

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. 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. There was evidence at the time of the inspection of a number of properties available for sale or let in the vicinity of the property now being considered, including a two bedroom property on the floor above.
17. Looking at all the evidence, the Committee concluded that the best method to adopt in this case was the method of taking market rents and then

discounting for any scarcity element and making any appropriate disregards as required by section 48(3). In this case, neither scarcity nor disregards required a discount to be made. We considered this method to be appropriate because the Committee has considerable knowledge of market rental values in the area upon which to draw, whereas only one comparable regulated tenancy was available. However, as the Committee had the benefit of a very similar comparable property in terms of size and location, which had been considered by a **prhc** only one year before, we used the comparable registered rent method as a cross check. The previous Committee had also considered that no deduction should be made for scarcity. The Fair Rent determined for the property at 1/L , 27 Daisy Street in February 2007 was £3,300. The landlords argued that the rent in February 2008 should be £3,750.00. The Committee took account of the fact that the two properties have not been upgraded to the same level. The Committee considered that adjusting to take account of the differences between the two properties could reasonably offset any increase which would otherwise have been appropriate due to the passage of time. Using this figure also results in a Fair Rent figure of £3,300 per annum.

18. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £3,300.00 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.

19. 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.

20. The effective date is 14<sup>th</sup> February 2008.

Signed ..... **I Montgomery** ..... (Chairman)  
Date ..... *6th March 2008* .....