



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G44/614	30 November 2007	Landlord

ADDRESS OF PREMISES

31 Thorncroft Drive, Glasgow, G44 5HW

TENANT

Miss H Cathro

NAME AND ADDRESS OF LANDLORD

Northumberland & Durham Property Trust

AGENT

Redpath Bruce Property Management  
103 West Regent Street  
Glasgow  
G2 2DQ

DESCRIPTION OF PREMISES

Lower cottage flat within two storey block of four flats circa 1930 with gas central heating and double glazing comprising four rooms, kitchenette and bathroom with relative garden grounds.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN  
PROFESSIONAL MEMBER  
LAYMEMBER

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

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 5100.00 p.a.	14 February 2008	14 February 2008

I Montgomery

Chairman of Private Rented Housing Committee

14th February 2008

Date

**PRIVATE RENTED HOUSING COMMITTEE  
STATEMENT OF REASONS  
INSPECTION AND HEARING: 14<sup>TH</sup> FEBRUARY 2008**

**PROPERTY: - Lower Cottage Flat situated at 31 Thorncroft Drive,  
Glasgow G44 5HW.**

**INTRODUCTION**

1. The Committee comprised Mrs I.R. Montgomery (Chairman), Mr G. Campbell (Surveyor) and Mr T. Keenan. The landlord is Northumberland & Durham Property Trust Ltd, represented by Redpath Bruce Property Management, 103 West Regent Street, Glasgow G2 2DQ. The tenant is Ms H. Cathro. This reference to the Rent Assessment Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 (hereinafter referred to as "the 1984 Act") in respect of the property arises from dissatisfaction on the part of the landlord.
2. The previous rent for the property was £3,400 per annum. The landlord applied for a rent of £3,800 per annum. The rent determined by the Rent Officer effective from 12<sup>th</sup> November 2007 was £3,800 per annum.

**DESCRIPTION OF THE PROPERTY**

3. On 14<sup>th</sup> February 2008, the Committee, accompanied by the Clerk, Mr Robert Shea, inspected the property, which is a lower cottage flat forming part of a two-storey block of four flats. The property has the exclusive use of the front garden and a share of the rear garden ground. The property is situated in the well-established residential suburb of Croftfoot and is conveniently located for access to shops and transport.
4. The property was built circa 1930, and is of a design common in Glasgow. The living room is accessed from the entrance hall. The living room is of good size and has a triple bay window. The attractive, original fireplace has been preserved, and the tenant has installed her own gas fire. There is a cupboard in one corner. The property also has a sitting room from

which, on one side, is accessed a kitchenette (approximately 6'6" square) and, on the other, a small room (approximately 6'6" x 12'), which the tenant uses as an extra bedroom. This room is adequate for use as a single bedroom and has one window. This room's location off the sitting room and in close proximity to the kitchen means it could be used as a dining room if preferred. The sitting room enjoys a very pleasant open outlook over a bowling green. The bathroom has the benefit of natural ventilation and light from a window, and the landlord has put in a replacement bathroom suite. The bedroom has one window and is a good sized double room.

5. The tenant complained that the wiring was old and not up to modern standards. She complained that she had recently tried unsuccessfully to have a new cooker installed, but the electrician had refused to install it due to the state of the wiring. There was a new electric cooker sitting in the tenant's lounge at the time of the inspection. A central heating system has been installed under the Scottish Government EAGA scheme. The property has been double glazed throughout by the landlord.
6. The landlord was not represented at the inspection.

#### **HEARING.**

7. Neither party requested a hearing and so no hearing took place. The reference was determined on the basis of the documentary evidence produced and the observations of the Committee at the inspection. The Committee are entitled to use their knowledge and experience when determining a fair rent and duly did so.

#### **THE LANDLORD'S CASE**

8. Despite having proposed a rent of £3,800, the landlord's representatives referred the matter to the Panel after the Rent Officer determined the rent at that figure. By letter dated 23<sup>rd</sup> November 2007, Redpath Bruce made reference to a schedule of properties owned by Western Heritable Investment Company Ltd which they stated were similar to 31 Thorncroft

Drive, Glasgow. Fair rents for these properties had been fixed at £4,200 per annum in February 2007. The Committee were asked to take note of these figures.

### **THE TENANT'S CASE**

9. The tenant made no specific submissions, but expressed annoyance and concern regarding the fact that the electric wiring in the property was inadequate to allow her to install a cooker.

### **DOCUMENTATION**

10. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:
  - a) Form RR1 dated 22<sup>nd</sup> August 2007;
  - b) Notification from the Scottish Government of a Fair Rent appeal, dated 27<sup>th</sup> November 2007;
  - c) Letter from Redpath Bruce dated 23<sup>rd</sup> November 2007; and
  - d) List of recently registered rent decisions provided by the clerk plus details of these properties.

### **THE DECISION**

- 12 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.

- 13 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.
- 14 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 details of one possible comparable property had been provided by the clerk. This property was located at 101 Ashcroft Drive, Glasgow and is of a similar size and construction. The Committee was aware that this was one of 102 Cottage Flats for which Fair Rents had been set by a prhc in the sum of £4,930 per annum with effect from 19<sup>th</sup> September 2007. The Committee had access to the Statement of Reasons in that case, which indicated that the Committee had found that the properties under consideration then must be regarded as being "substantially unimproved". The properties had not been universally double glazed and none of the properties inspected by the Committee had the benefit of central heating. The Committee were also aware that the decision of the Committee in this case had been appealed to the Court of Session. That being so, the Committee considered that the rent fixed should be regarded with some caution, as the decision could be overturned.

15 Looking at all the evidence, the Committee concluded that the best method to adopt in this case was taking market rents and then discounting for any scarcity element and making any appropriate disregards as required by section 48(3). Section 48(3) 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 ignored the improvements made by the tenant when proceeding to value this property.

11. The Committee had knowledge of other properties available for rent in the same area as this property, and we had the benefit of considering the evidence produced in relation to the 102 properties referred to above. At the time of the inspection, a number of properties were available for rent in the vicinity of the property under consideration at a monthly rental figure of £525. The Committee accepted that rents asked for are not always achieved, but we considered that a monthly rental figure of at least £450 per month was achievable for a property such as this property, which has the benefit of central heating and double glazing and enjoys the advantage of a pleasant open outlook over the bowling green. The Committee therefore accepted £450 per month as a realistic assessment of the market rent for a property of the same size and general location as the flat now under consideration at this point in time. This equates to an annual rental figure of £5,400.

12. The Committee did not, however, consider that the flat now under consideration would achieve a market rent of £450 per month in the condition in which it must be assessed. We considered that the substandard wiring in the property, which prevented the tenant from installing a new cooker, had an adverse impact upon the value of the property. We accordingly assessed the market rent for the property *in the*

*condition at which it must be valued* as £425 per calendar month. That equates to an annual figure of £5,100. 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").

13. 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.
14. 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.
15. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £5,100.00 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.

16. 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.

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

Signed **I Montgomery** .....Chairman)  
Date .....13<sup>th</sup> March 2008.....