



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/PA19/615	5 December 2007	Landlord

ADDRESS OF PREMISES

1-2, 5 Ashburn Gardens, Gourrock, PA19 1BT

TENANT

Miss A McKay

NAME AND ADDRESS OF LANDLORD

Mr AA McTaggart

AGENT

McTavish & Co.
18 Nicholson Street
Greenock
PA15 1JU

DESCRIPTION OF PREMISES

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

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
PROFESSIONAL MEMBER
LAYMEMBER

Mrs A Devanny LLB NP
Mr A English FRICS
Mr S Campbell

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3500.00 p.a.	12 February 2008	12 February 2008

A Devanny

Chairman of Private Rented Housing Committee

12th February 2008

Date

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Tuesday 12 February 2008

Of the property

Flat 1/2, 5 Ashburn Gardens, Gourrock PA19 1BT
(hereinafter referred to as "the flat")

INTRODUCTION

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

The Landlord of the flat is Alastair A McTaggart whose agents are Messrs. McTavish & Co., 18 Nicolson Street, Greenock PA15 1JU. The Tenant of the flat is Miss. Audrey Mackay.

The annual rent for the flat was last registered on 21 October 1996 at the figure of £1750 per annum. On 13 September 2007 the Landlord applied to have the rent increased to £3500 per annum. The Rent Officer determined the rent for the flat at the figure of £2700 per annum with effect from 5 November 2007.

The reference to the Private Rented Housing Committee has been submitted by the Landlord.

INSPECTION

The Committee inspected the flat on the morning of 12 February 2008. The Tenant was present throughout the inspection. No Representative of the Landlord attended.

The flat is located on the first floor of a four storey traditional red sandstone tenement which was constructed circa 1900. The tenement has a slated roof. There is an unsecured entry door to the communal close. The close, stairs and landings were litter free at the time of inspection and in reasonably good decorative order and repair. The communal drying areas to the rear were tidy and are grassed and well stocked with plants and shrubs. The communal area to the rear is accessed via a door to the rear of the common close, which has no lock.

The flat lies on the right-hand side of the first floor landing. The accommodation of the flat comprises a bay windowed living room with recessed area, sitting room, bedroom, dining kitchen, and internal bathroom. Space heating and hot water are provided by the Tenant's central heating system. The flat has modern PVC double glazed windows. The kitchen is large but is an unusual shape with fitted units. The cooker and other kitchen appliances and gas fires in the two public rooms have been provided by the Tenant and are maintained by her. The living room is large and has a bay window with a pleasant view from one window of the esplanade and the sea. The bedroom and sitting room are fair sized with views to the rear of the property over the drying green and a wooded area. The internal bathroom has a modern bathroom suite. There is a walk-in cupboard off the large hall. No services or furniture are provided by the Landlords.

Parking for the flat is on street and at the time of inspection there were spaces adjacent to the property. The flat is in a quiet residential area with good shopping and leisure facilities and lies close to the esplanade and has a sea view from one window.

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 11 September 2007.
2. Landlord's letter of appeal dated 29 November 2007.
3. Notification of fair rent appeal from Rent Registration Service dated 3 December 2007.
4. Rent Register page.
5. Landlords' representations dated 8 December 2007.
6. Tenant's representations dated 15 December 2007.

The appeal from the Landlord is based on the suggestion that a rent of £3500 per annum should be registered in respect of the flat and that this rental figure is more in keeping with current market rents. The Landlord's agents indicate that flats of the same size in the same postcode and with the same Clyde estuary views are commanding monthly rents of between £435-£475. They suggest that the increased rental figure which is sought would be a fair return for the capital value of the property.

The Tenant made representations that the refurbishment in 1991 created a large unusually shaped kitchen and reduced cupboard space. At the inspection she highlighted minor cracking to the walls, minor dragging to one corner of the bedroom wallpaper, uneven kitchen floors and water penetration staining in the hall, bathroom and livingroom. She confirmed that repairs had been carried out to remedy the water penetration problems. She indicated that the market rent comparisons given by the Landlord applied to modern flats with secure entry and dedicated enclosed parking. She argued that given the age of the property, its state of repair and the poor standard of the rear common ground that the Rent Officer's determination of £2700 per annum is fair and reasonable.

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 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, 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 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 rented accommodation available in the area. The Committee accepted that the best evidence available was the evidence of market rents of similar flats within the area. The Committee noted a pattern that two bedroom flats within the Gourrock area are being offered for rent at between £435 and £550 per month. This is in line with the Landlord's representations on market rents for comparable flats within the Gourrock area. The Committee considered that a deduction in the rent should be made for market resistance to an unfurnished bare flat and the Committee disregarded the Tenant's improvement of central heating and the two gas fires and kitchen appliances provided and maintained by the Tenant. The Committee considered whether a deduction should be made from the rent for scarcity. However, investigations from various sources including internet sites, suggest that there is a significant number of properties to let in the area at asking rents which are in line with rents being paid in other locations where it has been established that there is no scarcity deduction so the Committee believe that it is inappropriate in this instance to make any deduction for market imbalance.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the property was £300 per month, which equates to £3600 per annum which is in line with the rent sought by the Landlord of £3500. The Committee had no evidence of registered rents of similar flats within the locality and, therefore, was unable to use this method to cross check the rental figure. Whilst return on capital values have been used in the past to calculate a fair rent, this is not the preferred means of calculating a fair rent and was disregarded by the Committee. The Committee is of the opinion that the rental figure sought by the Landlord is fair and saw no reason to interfere with it. Accordingly, the Committee unanimously determined that the fair rent for the flat is £3500 per annum.

In reaching this decision, the Committee has had regard to all the requirements of Section 48 of the 1984 Act.

The decision takes effect from the Twelfth day of February, Two thousand and Eight.

A Devanny

Chairperson,
12th February 2008