



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G41/626	8 February 2008	Landlord

ADDRESS OF PREMISES

0/1 135 Kilmarnock Road, Glasgow, G41 3YT

TENANT

Mrs B McDermott

NAME AND ADDRESS OF LANDLORD

Mr & Mrs I Mowat

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 A English FRICS
Mr T Keenan

FAIR RENT

£ 4500.00 p.a.

DATE OF DECISION

21 April 2008

EFFECTIVE DATE

21 April 2008

I Montgomery

Chairman of Private Rented Housing Committee

21st April 2008

Date

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

INSPECTION AND HEARING: 21st April 2008

PROPERTY: -0/1, 135 KILMARNOCK ROAD, POLLOKSHAWS,
GLASGOW G41 3YT.

INTRODUCTION

1. The Committee comprised Mrs. I.R. Montgomery (Chairman), Mr. A. English (Surveyor) and Mr. T. Keenan (Housing panel member). The landlords are Mr and Mrs I Mowat, represented by Hacking and Paterson, 1 Newton Terrace, Glasgow G3 7PL. The tenant is Mrs B. McDermott. 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, 135 Kilmarnock Road, Pollokshaws, Glasgow arises from dissatisfaction on the part of the landlord.
2. The previous rent was £2,600.00 per annum. The landlord applied for a rent of £4,500.00 per annum. The rent determined by the Rent Officer was £2,950.00 per annum.

DESCRIPTION OF THE PROPERTY

3. On the morning of the 21st April 2007, 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 mixed residential/commercial area with good access to shopping and transport. There is a public house on the corner. The tenement building is of four storey buff stone construction, of superior quality. There is decorative carved stone above the windows. Externally, the building appeared to be in a reasonable state of repair. 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, although the tenant indicated that it does not always function as it should.

4. The accommodation extends to two rooms, a living kitchen and a bathroom. The lounge is large with a triple bay window. The room has the original attractive cornicing and ceiling rose. There is a large cupboard and a second shallow cupboard. The bedroom is a good sized double bedroom with a large double window. The living kitchen is in the traditional style with a bed recess area. The kitchen units have been replaced by the tenant and only an old stone sink was supplied by the landlord. The bathroom contains a bath, WC, and wash hand basin all supplied by the landlord. It has the benefit of natural light and ventilation from the window. The hallway is of good size and contains a shallow cupboard. All rooms are accessed from the hall. The back court was tidy at the time of the inspection.

5. The property has the benefit of central heating installed under the EAGA scheme. A smoke detector was installed at the same time. The flat is single glazed. The building was refurbished about 20 years ago, at which time a damp course was put in and the property was rewired.

6. The landlord was not represented at the inspection.

DOCUMENTATION

7. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:
 - a) Form RR1 dated 20th December 2007;
 - b) Letter from Hacking and Paterson dated 29th January 2008;
 - c) Notification from the Scottish Government of a Fair Rent appeal, dated 31st January 2008;
 - d) Written representations form from the landlord dated 11th February 2008;

HEARING

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

THE DECISION

9. 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.
10. 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, market values or registered rents of comparable houses. The Committee did, however, have the benefit of its own knowledge and experience of the housing market in the area. There were two possible comparable registered rents, relative to properties in neighbouring streets within the Pollokshaws area.

11. 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 two registered rents of comparable properties had been provided by the clerk. These properties had had their fair rents fixed by Rent Assessment Committees during 2007. The property at 1/1 100 Deanston Drive is similar in size, style and location to the property under consideration. However, the Committee is empowered by section 48(1) of the 1984 Act to apply their knowledge and experience of current rents of other comparable property in the area when determining a fair rent. There is an abundance of information available on the internet and in the media and from local letting agents about rents being sought and passing in the Glasgow area. The Committee considered that this evidence of market rents was the best evidence available, as it provided an up to date and more comprehensive picture of the current rental market.

12. The Committee was aware of a number of other properties of similar size within close proximity to the property now under consideration where rents of between £425 - £575 are being asked. The Committee was aware of such rents being obtained in the Shawlands area and considered that such rents were realistically attainable. Such properties as could achieve the higher rent levels, however, have been improved and have the advantages of double-glazing, white goods and carpets and a modernized kitchen and bathroom. Some of the properties are offered fully furnished. The present property is

without double glazing, 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. We considered that an adjustment would have to be made to take account of these factors.

13. The Committee must disregard tenant's improvements. We are therefore valuing a property which not only has no double glazing, floor coverings or white goods, but in this case also has a kitchen with only a traditional stone sink. We considered that there would be resistance to such a property in the private rented market. As there were a number of properties available for let at the time of our inspection, (including a similar flat in the building next door which was available for let fully furnished for £525 per month), we considered that this flat in the condition in which it must be valued, would only attract a tenant if the rent were lower than rents being asked for other similar properties. We considered that the market rent for this flat would fall slightly below the low end of the rental rent range of £425 -£575. However, it is an attractive flat in a desirable location and we did not consider that the rent would require to be set at any lower than £375 per month in order to attract a tenant. That being so we saw no reason to interfere with the rent asked for by the landlords. We considered the figure of £4,500 to be reasonable for the landlord to ask and reasonable for the tenant to pay.

14. 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"). 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. Indeed, there were a number of similar properties available for let within the Shawlands area as at the date of the inspection, including the flat in the next building which has been previously referred to. 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 the market rent in this case is also the Fair Rent.

16. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £4,500.00 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 21st April 2008.

Signed .. **I Montgomery**Chairman)
Date 3rd May 2008