



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

| REFERENCE NO: | OBJECTION RECEIVED | OBJECTION |
|---------------|--------------------|-----------|
| RAC/PA1/630 | 31 March 2008 | Landlord |

ADDRESS OF PREMISES

3/1,75 Chancellor Street, Glasgow, G11 5PP

TENANT

Mr & Mrs Borland

NAME AND ADDRESS OF LANDLORD AGENT

Partick H.A.
10 Mansefield Street
Glasgow
G11 5QP

DESCRIPTION OF PREMISES

Third floor tenement flat circa 1900 with gas central heating and double glazing comprising three rooms, galley kitchen and dark bathroom with electric shower.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
LAYMEMBER

Mrs I Montgomery BA(Hons) NP
Mr G Campbell FRICS
Mrs S Brown

| FAIR RENT | DATE OF DECISION | EFFECTIVE DATE |
|----------------|------------------|----------------|
| £ 5400.00 p.a. | 19 May 2008 | 22 April 2008 |

I Montgomery

Chairman of Private Rented Housing Committee

19th May 2008
Date

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

INSPECTION: -19th May 2008

PROPERTY: -3/1, 75 CHANCELLOR STREET, GLASGOW, G11 5PP.

INTRODUCTION

1. The Committee comprised Mrs. I.R. Montgomery (Chairman), Mr. G. Campbell (Surveyor) and Mrs. S. Brown (Housing member). The landlord is Partick Housing Association, 10 Mansfield Street, Glasgow G11 5QP. The tenants are Mr. T. and Mrs M. Borland. 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 top floor traditional tenement flat at 3/1, 75 Chancellor Street, Glasgow arises from dissatisfaction on the part of the landlord.
2. The previous rent was £2,064.00 per annum. The landlord applied for a rent of £2,543.32 per annum. The rent determined by the Rent Officer was £2,476.32 per annum.

DESCRIPTION OF THE PROPERTY

3. On the morning of the 19th May 2008, the Committee, accompanied by the clerk, inspected the property which comprised a top floor traditional tenement flat. The tenement building was built around 1900, and is located in a residential area with excellent 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 three rooms, a galley kitchen and a windowless bathroom. The property has central heating which was installed

by the landlord. The property is double glazed throughout. The living room is of good size and the tenant has laid wooden flooring. The kitchen is small and is located off the living room. The landlord supplied work tops and kitchen units, but the tenant has supplemented these by adding further cupboards. The smaller bedroom is a good sized double bedroom with one large window. The larger bedroom is of generous proportion, but has only a single window. The small bathroom is internal and has no window, but all fixtures including the shower were supplied by the landlord. The property has a large walk-in cupboard off the hallway. 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 RO1 dated 25th January 2008;
 - b) Notification from the Scottish Government of a Fair Rent appeal, dated 26th March 2008;
 - c) Written representations from the landlord dated 2nd April 2008;
 - d) Letter from Partick Homes Ltd dated 17th March 2007
 - e) List of recently registered rent decisions provided by the clerk plus details of these properties.

HEARING

7. No hearing was requested 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 two possible comparable properties had been provided by the clerk, namely the properties situated at 3/1, 70 White Street, Glasgow and at 0/2, 4 White Street, Glasgow. Both these properties had been assessed by the same Committee on 19th March 2008. Of these properties, the property at 3/1, 70 White Street was closer in size to the property now under consideration. The property at 0/2, 4 White Street was considerably smaller. Although the property at 3/1, 70 White Street is described as having two rooms rather than three, the Committee noted that it had the benefit of a large living kitchen, which this property does not. The property at 3/1, 70 White Street had had a fair rent fixed by a Private Rented Housing Committee (prhc) at an annual rent of £3,600 effective from 19th March 2008. That Committee's Statement of Reasons was available to this Committee, and the Committee therefore had detailed and reliable information about this property.

11. The Committee, using its own knowledge and experience, was aware of a number of similar sized properties in the Partick area where rents of between £475 and £500 per month were being achieved on a market rent basis, or where flats were being offered for rent at around these prices or even higher. Some were available for let at the time of the inspection for as much as £550 per month. However, these were upgraded and often 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. The Committee also bore in mind that rents being demanded at any point in time are not necessarily the rents which will ultimately be achieved.
12. 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). We reached this conclusion 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 very recently considered by a **prhc**, we used the comparable registered rent method as a cross check.

13. The property in question is situated in a good west end location. It is within easy traveling distance of the University, Kelvingrove Art gallery, the Museum of Transport and various hospitals. It has excellent access to shops, restaurants and transport. Drawing on its own knowledge and experience of the local rental market, the Committee determined that the market rent for a three room property in this area would be in the region of £500 per month. Some properties will achieve rents higher than this because of their particular location or desirability.

14. The property which is being valued is a three room property with double glazing and central heating. It has a small kitchen and a dark bathroom. 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. 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 £450 per calendar month. That equates to an annual figure of £5,400. The Committee then proceeded to consider whether any deduction 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. 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. The Committee was satisfied that no deduction required to be made in relation to scarcity for this type of property in this area at this point in time.

17. Using the market rent method therefore would result in the Fair Rent for this property being assessed at £5,400 per annum. The Committee proceeded to use the comparable registered rent method as a cross check. The Committee noted that the property at 3/1, 70 White Street had neither double glazing nor central heating. The kitchen was basic with only a stainless steel sink supplied, and the bathroom was also described as basic with dated fittings. Some of the original sash and case windows were found by the Committee to be defective, and the electrical wiring required to be checked and upgraded.

The Committee considered that the property at 3/1, 70 White Street was in a significantly poorer condition than the property now under consideration. We considered that a substantially higher level of rent was appropriate for this current property. We noted that the Committee dealing with the White Street property had found the market rent levels to be in the region of £475 - £500 which was not inconsistent with our own findings. The lower rent fixed had been achieved by virtue of deductions considered appropriate to the property in question. The Committee had also 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. The Committee therefore concluded that, when appropriate adjustments were made for the differences between the condition of the two properties, the cross check with the comparable registered rent confirmed the result obtained by using the market rent method.

18. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £5,400.00 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. The rent now determined is significantly greater than the previous rent which was being paid. It should be noted, however, that any increase imposed in consequence of this decision must be imposed in accordance with the provisions of section 33 of the 1984 Act and The Limits on Rent Increases (Scotland) Order 1989 S.I. 1989 No 2469 (s.168). These provisions specify the limits for the phasing in of significant increases.
20. 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.

21. The effective date is 22nd April 2008.

Signed ... **I Montgomery**Chairman)
Date 9th June 2008