



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/PA1/633	28 March 2008	Landlord

ADDRESS OF PREMISES

T/R, 23 Gauze Street, Paisley, PA1 1ES

TENANT

Mr & Mrs Fraser

NAME AND ADDRESS OF LANDLORD

Punch Taverns(PML)Ltd
Jubilee House
Second Avenue
Burton Upon Trent
Staffs. DE14 2WF

AGENT

Ross & Liddell
Property Managers
25 Gauze Street
Paisley
PA1 1ES

DESCRIPTION OF PREMISES

Second floor tenement flat pre 1900 with gas central heating, cooker, washing machine, carpets and floor coverings comprising two rooms, dining kitchen and dark bathroom.

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
£4500.00 p.a. incl. of carpets, floorcoverings, cooker and washing machine.	19 May 2008	19 May 2008

I Montgomery

Chairman of Private Rented Housing Committee

Date

19th May 2008

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

INSPECTION: -19th May 2008

PROPERTY: -FLAT TOP RIGHT, 23 GAUZE STREET, PAISLEY, PA1 1ES.

INTRODUCTION

1. The Committee comprised Mrs. I.R. Montgomery (Chairman), Mr. G. Campbell (Surveyor) and Mrs. S. Brown (Housing member). The landlord is Punch Taverns (PML) Ltd, and is represented by Ross and Liddell, Property Managers, 25 Gauze Street, Paisley PA1 1ES. The tenants are Mr. George and Mrs. Shelia Fraser. This reference to the Private Rented Housing Committee relates to an application by the landlords for a certificate of Fair Rent under the Rent (Scotland) Act 1984 in respect of the top floor (right) flat at 23 Gauze Street, Paisley.
2. The landlord's agents indicated that the building at 23 Gauze Street, Paisley, had been fully refurbished and the three flats therein had been renovated. In these circumstances, an application was made to the Rent Registration Service for a certificate of Fair Rent.
3. The rent previously paid for the unrenovated flat was £1,359.96 per annum. The landlord applied for a rent of £4,750.00 per annum. The rent determined by the Rent Officer was £3,245.00 per annum.

DESCRIPTION OF THE PROPERTY

4. On the morning of the 19th May 2008, the Committee inspected the property which comprised a top floor traditional flat in a three storey tenement building. The Anchor public house occupies the ground floor. The building was built sometime during the eighteenth century, and is centrally located in Paisley, overlooking Paisley Abbey and the attractive landscaped ground surrounding the Abbey. The building is ideally located for transport links and the facilities

of Paisley. Gilmour Street train station is only a short walk away and Glasgow airport and the M8 motorway are easily and quickly accessible by car. The building is located within a Conservation area.

5. Access to the property is gained via an unappealing entrance and stairway. The stairway was in a dirty condition on the day of the inspection. Some of the stairs were uneven and the stone showed various areas of damage. The top four stairs were particularly old and of wooden construction. The top hand rail was only loosely affixed to the wall on the day of inspection.
6. The flat itself was empty of furniture on the day of the inspection but was freshly painted and had new floor coverings throughout. The accommodation extends to two rooms, kitchen and bathroom. The kitchen and bathroom have tiled floors and the other two rooms are carpeted. The property has central heating and is single glazed throughout, due to the building being located in a Conservation area. The windows have been replaced with new windows in the traditional sash and case style. The windows had been finished with new brass fittings and had the appearance of being of high quality. The living room is of good size with an open view of Paisley Abbey from the windows. The bedroom also has an attractive outlook. The kitchen is a spacious and bright room which has been fitted with new units and work tops. It is to be fitted with a new cooker and washing machine, although these white goods had not yet been installed at the time of our inspection. The location of the gas meter is such that it is prominently exposed to view at floor level, which the Committee did not consider to be an advantage. The back court of the building consists of the asphalt roof of the building below.
7. The landlord's agent was present throughout the inspection. The tenants were not present nor were they represented.

DOCUMENTATION

8. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:
- a) Notification of determination issued by the Rent Registration Service dated 18th February 2008;
 - b) Notification from the Rent Registration Service of a Fair Rent appeal, dated 20th March 2008;
 - c) Form No 3 – application form for a Certificate of Fair Rent.
 - d) Written representations from the landlord's agents dated 13th November 2007.
 - e) Letter from Ross and Liddell dated 29th February 2008.

HEARING

9. Parties were given the opportunity to make representations in writing or orally.
10. 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

11. The certificate of Fair Rent procedure allows a landlord to find out in advance what rent would be registered for a property occupied by a regulated tenant. Section 47(2) of the Rent (Scotland) Act 1984 provides as follows:-
- (2) The regulated tenancy to which the application for the certificate of fair rent relates shall be assumed to be a tenancy on such terms as may be specified in the application and, except in so far as other terms are so specified, on the terms that the tenant would be liable for internal decorative repairs, but no others, and that no services or furniture would be provided for him.*

The Committee proceeded on this basis.

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. Improvements by the landlord are taken into account. The white goods to be provided are new and have not yet been installed. The Committee assumed for the purposes of this application that the cooker and washing machine would be installed and would be in perfect working order. 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 Committee did not have the benefit of any evidence of comparable registered rents but did have information regarding market rents passing and being asked in the area. The Committee accordingly decided to proceed using this method. The capital value method is rarely used and, in times of high property values, is likely to result in a rental figure above what is realistically achievable in the neutral rental market in a state of equilibrium that forms the basis of the Fair Rent assessment.
15. The landlord's agents provided some information in their letter dated 29th February 2008 about other rents passing in the area for properties above public houses. No information was provided as to whether these rents had been fixed by the Rent Registration service, or whether they had been achieved in the open market. The properties in Smithhills Street and Gauze Street are two bedroom flats and are therefore bigger than the flat now under consideration. Three dwellings located in Causeyside Street were one bedroom properties. Causeyside Street is also centrally located within Paisley.
16. The Committee, using its own knowledge and experience, was aware of another one bedroom property available for let in Gauze Street. This property was being offered fully furnished at a monthly rent of £410 per calendar month, which equates to £4,920 per annum. This property appeared similar in style to the property under consideration and was located above shops. It was offered with more white goods than the present property, and had the advantage of private parking. The Committee considered that this property would be likely to achieve a higher rental figure than the property now under consideration because of these factors. The Committee also bore in mind that

rental figures sought are not always achieved. The Committee considered that the market rent for the property now under consideration would be less than the £410 per month being sought for this property.

17. The Committee considered the information provided by the landlord's agents.

Of the three one bedroom properties referred to, one had rent passing at £4,200 and the other two had rents passing at £4,500 per annum. The landlords' agents stated that these properties had not been upgraded to the same standard as the flat at 23 Gauze Street, but gave no detailed information as to the ways in which they differed. The Committee accepted that the flat now under consideration had been upgraded to a high standard, but considered that it did suffer from certain disadvantages. We assumed that the entrance and stairs would be cleaned and that the loose hand railing would be rectified before the property was re-occupied. However, even after making that assumption we considered the entrance to the flat to be unappealing and unattractive. We also considered the back court area to be unappealing. The flat also suffers from a distinct lack of storage space. The gas meter is inappropriately located in the kitchen and gave the unfortunate impression of having been installed where it just happened to be left. We considered that these factors detracted from the property and could have an adverse effect upon its attractiveness in an open market situation.

18. Looking at all the evidence, we considered that the market rent for the property under consideration was £4,500. This figure includes the sum of £125 in respect of carpets, floor coverings and white goods. No information had been provided in relation to the costs of these items and no schedule of depreciation had been produced. The Committee therefore saw no reason to interfere with the Rent Officer's figure relative to these items.

19. 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"). 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.

20. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the area of Paisley 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 two in Gauze Street, one being the property to which reference has already been made and the other being a two bedroom property of more modern construction .

21. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £4,500.00 per annum, inclusive of all floor coverings, cooker and washing machine. 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.

22. 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.

23. The effective date is 19th May 2008.

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