



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G72/667	10 December 2008	Landlord

ADDRESS OF PREMISES

1/1, 239 Glasgow Road, Blantyre, G72 0YS

TENANT

Mrs M Neilson

NAME AND ADDRESS OF LANDLORD

Clydesdale Securities Co Ltd

AGENT

Ross & Liddell
60 St Enoch Square
Glasgow
G1 4AW

DESCRIPTION OF PREMISES

Tenement flat C.1900 first floor with main door accessed from the rear of the building comprising 2 double bedrooms, living room, kitchen and bathroom, with gas central heating.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

A Devanny LLB NP
G Campbell FRICS
C Harvey

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 3,900.00 p.a.	12 March 2009	12 March 2009

A Devanny

Chairman of Private Rented Housing Committee

Date

12th March 2009

PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Wednesday 12 March 2009

of the Properties

(ONE) Flat 1/1, 239 Glasgow Road Blantyre G72 0YS
(hereinafter referred to as "the first flat")

(SECOND) Flat 1/R, 12 Woodcroft Avenue, Glasgow G11 7HX
(hereinafter referred to as "the second flat")

(THIRD) Flat 2/1, 122 Neilston Road, Paisley PA2 6EW
(hereinafter referred to as "the third flat")

INTRODUCTION

References have been made to the Private Rented Housing Committee for the determination of a fair rent for the first, second and third flats under the Rent (Scotland) Act 1984 ("the 1984 Act").

The Landlords of the first flat are Clydesdale Securities Co. Ltd., whose agents are Ross and Liddell Ltd., 60 St. Enoch Square, Glasgow G1 4AW. The Tenant of the flat is Mrs. Margaret Neilson. The annual rent for the first flat was last registered on 29 November 2005 at the figure of £2850. On 15 September 2008, the Landlords applied to have the annual rent increased to £5100. The Rent Officer determined the annual rent for the first flat at the figure of £3350 with effect from 29 November 2008.

The Landlords of the second flat are Clyde Valley Securities Co.Ltd., whose agents are Ross and Liddell Ltd., 60 St. Enoch Square, Glasgow G1 4AW. The Tenant of the flat is Mrs. Anita Spiers. The annual rent for the second flat was last registered on 13 September 2005 at the figure of £ 3100. On 15 September 2008, the Landlords applied to have the annual rent increased to £4800. The Rent Officer determined the annual rent for the second flat at the figure of £3600 with effect from 3 December 2008.

The Landlords of the third flat are Ingus Properties, whose agents are Ross and

Liddell Ltd., 60 St. Enoch Square, Glasgow G1 4AW. The Tenant of the flat is Mr. Robert McPhee. The annual rent for the third flat was last registered on 27 September 2005 at the figure of £2280. On 15 September 2008, the Landlords applied to have the annual rent increased to £4100. The Rent Officer determined the annual rent for the third flat at the figure of £2644 with effect from 20 November 2008.

The references to the Private Rented Housing Committee have been submitted in each case by the Landlords.

INSPECTION

The Committee inspected the three flats on 12 March 2009. At each inspection the Tenant was present. No Representative of the Landlords attended the inspections.

(The first flat) The flat is located on the first floor of a two storey traditional grey sandstone tenement which was constructed circa 1900. The tenement has a tiled roof and the flat is located above commercial premises. The flat is accessed from the rear of the building either by pedestrian access through an unsecured pend close leading from Glasgow Road or by pedestrian and/or vehicle access over a private un-made-up access road which leads through an unsurfaced residents' car park. There is a communal red chipped drying area to the rear of the tenement which lies within a timber pallisade fence. The rear back court and bin area was untidy at the time of inspection and some of the fences enclosing this area had been badly damaged by fire.

A communal stairway leads to first floor level and the flat is the left hand property. Externally the roof, gutters and downpipes were in reasonable condition. A porch leads into a hallway and off this is the livingroom, two double bedrooms (one of which is used for storage), kitchen and bathroom. There are also two hall cupboards which house the electrics and the boiler. The Landlords have provided some basic kitchen units which are now dated and in need of repair but no kitchen appliances. The Tenant has carried out improvements to the flat which were disregarded for the purposes of the inspection. The Landlords provide no services or furniture.

The flat has been rewired and space heating and hot water are provided by a gas central heating system. The windows in the flat are single glazed with relatively modern frames which the Tenant complains are ill fitting and draughty. She also complains of rainwater penetration to the kitchen ceiling and porch ceiling; a dripping tap in the kitchen; a poorly fitting back door; and a broken window in the porch. She complained of rubbish in the back court and of a problem with vandals in the area as evidenced by the badly burned fence.

The flat is in a central area of Blantyre near shops, transport links and leisure facilities.

(The second flat) The flat is located on the first floor of a traditional red four storey sandstone tenement which was constructed circa 1900. The tenement has a tiled roof. There is a secure entry door to the communal close. The close and stairs were in good decorative order and repair and litter free at the time of inspection. The communal

drying area to the rear of the tenement is grassed and the rear back court was tidy and well cultivated with shrubs. The communal back court is accessed by a door to the rear of the common close.

The flat lies on the right hand side of the first floor. A good sized square hall leads directly from the common landing and gives access to a large bay windowed living room with cupboard, a double bedroom, a dining kitchen with recessed area and a narrow and awkwardly shaped bathroom. There are two hall cupboards. The flat is largely in an unimproved condition with the original single glazed sash windows. There was evidence that some of the windows were poorly fitting and the Tenant has attempted repairs to keep them wind and watertight. Some mastic repairs are required to the exterior of the windows. There was evidence of some water penetration to the walls and ceiling in the kitchen. The kitchen is basic and has a cupboard but no base or wall units apart from those provided by the Tenant. The Landlords have provided a free standing stainless steel sink unit but there is no backing to this unit and the base cupboards open to reveal the exposed stonework. The exposed rear edge of the sink unit has a razor sharp steel edge which is dangerous and it was noted that the windows behind the sink unit could not open because of the position of the sink unit. The Landlords provide no furniture, appliances or services. The gas fire in the kitchen belongs to the Tenant and the Tenant provides the other electrical heaters. A new bathroom suite was fitted last year to cure a long standing drainage problem but the bathroom remains basic in nature. The bathroom door does not lock or open fully. The flat has no space heating provided by the Landlords and water is heated by an immerser heater. The flat has been rewired.

Parking for the flat is on street and at the time of inspection there were spaces available adjacent to the property. The flat has a pleasant outlook and lies in a desirable residential street. It is centrally situated for shopping facilities, transport links and leisure facilities in the West End of the City.

(The third flat) The flat is located on the second storey of a traditional buff sandstone tenement which was constructed circa 1900. The tenement has a tiled roof. There is a secure entry door to the communal close. The close and stair were in reasonable repair and litter free at the time of inspection. The communal rear back court is partly laid out to grass and gravel and has a common bin store area and common drying area. It was reasonably neat but there was some rubbish stacked at the time of the inspection.

The flat lies on the right hand side of the first floor. A narrow hall leads to a livingroom with a recessed kitchenette off, an internal bathroom with reasonably modern fittings and a rear small single bedroom with a single glazed window overlooking the rear back court. The kitchen units in the kitchenette are basic and are provided by the Landlords. The window in the livingroom to the front of the property is double glazed. Space heating and hot water is provided by a gas central heating system which was installed under a government grant scheme and is maintained by the Landlords. The Tenant indicated that no repairs were required to the flat. The Landlords provide no furniture, appliances or services.

The flat is situated in a reasonably central location on a busy street near shops, and transport links. Parking in on street and there were limited available spaces in close

proximity to the flat at the time of inspection.

HEARING

The Landlords' agents intimated that they wished to attend the hearing before the Committee and the hearing took place at the offices of Private Rented Housing Panel at West Campbell Street, Glasgow following the inspections. The Landlords' agents were represented at the hearing by Mr. Jack Fulton, Director of Ross and Liddell Ltd., and Mrs. Isabelle Doyle, Estate Agency Manager/former Letting Manager of Ross and Liddell Ltd. None of the Tenants attended the hearings although the Tenant of the first flat at the inspection indicated that she believed that the flat at No. 262 Glasgow Road, Blantyre referred to in the Landlords' written representations was not a true comparable as that flat was a one-bedroomed improved flat with new double glazed window units. The Tenant of the second flat at the inspection handed the Committee a written note of the repair history of the flat for consideration at the hearing and a copy was passed to the Landlords' agents prior to the hearing. They made no comments thereon at the hearing.

At the hearing the three properties were considered in turn:

(The first flat) The Landlords' agents indicated that there was an error in the proposed rent being sought by the Landlords for this flat and the annual rental sought was £4200. They submitted that this sum was based on their investigations with local letting agents which revealed that basic 2-bedroomed flats in the area were attaining monthly rents of £350 which equate to annual rent of £3900. They stated that the current rent for No.262 Glasgow Road of £3900 per annum was further evidence of market rents in the area as this flat is directly across the road to the first flat. The agents indicated that this flat at No. 262 has one double bedroom as opposed to the two double bedrooms of the first flat but accepted that the flat at No.262 has new double glazed windows and seems externally to have better amenity than the first flat. They noted the repairs specified by the Tenant but made no comment thereon in the context of the rent payable. They indicated that there was a plentiful supply of properties for rent in the area and there was still a demand for unimproved properties. They stated that even basic properties for rent without gas central heating and without double glazing achieve £300 - £350 per month in rent.

(The second flat) The Landlords' agents indicated that an error had been made in the proposed rent sought in the application to the Rent Registration Office and instead of £4800, the proposed annual rent sought was £6000. This amended rent is based on current market rents of similar properties in the area. They stated that Woodcroft Avenue is a highly desirable area based on its location and pleasant outlook. The agents stated that consideration of current market rents provided the best method of assessing a fair rent. They argued that the registered rent decisions being considered by the Committee were well below market rents achieved and the areas of the registered rent decisions at Fairlie Park Drive and Laurel Street were not as desirable as the location of the second flat. They indicated that there was no scarcity of flats for rent in the West End of Glasgow.

(The third flat) The Landlords' agents stated that the proposed rent sought for this

flat should be £3300 per annum rather than the sum of £4100 presently detailed in the application. A flat at No.1/1, 128 Neilston Road was used by them as a comparable. That flat achieved an annual rent of £3900 (£325 per month) in February 2008 and they agreed that the third flat had a considerably smaller bedroom to the flat at No.128 Neilston Road and they had reflected this in the amended rental figure.

On the issue of scarcity, the Landlords' agents stated that they were aware that there were 260 available flats for rent in the Paisley area and hence they did not believe that there was any scarcity in the present rental market. They did not believe that the Committee should use return on capital value as an appropriate method of reaching a fair rent.

DECISION

The Committee considered most carefully the written documentation before it, viz.: -

1. RRI Applications for the first, second and third flats, all dated 15 September 2008.
2. Landlords' letters of appeal dated 1 and 5 December 2008.
3. Notification of fair rent appeal from Rent Registration Service for the first, second and third flats dated 8, 9 and 4 December 2008.
4. Rent Register Pages.
5. Landlords' representations for the first, second and third flats, all dated 6 January 2009.
6. Tenants' representations, comprising forms from Mrs. Neilson dated 31 December 2008, and from Mrs. Spiers dated 6 January 2009, and from Mr. McPhee dated 12 December 2008.
7. Note of repair history from Mrs. Spiers for the second flat dated 12 March 2009.
8. List of registered rent decisions compiled by the Clerk to the Committee relating to:

RAC/G11/648 1/R, 7 Fairlie Park Drive, Glasgow G11 7SS
RAC/G11/640 2/1, 56 Laurel Street, Glasgow G11 7RD

The appeal from the Landlords is based on the suggestion that there is no evidence of scarcity and that the rental market is presently in balance and, a higher rent be registered more in keeping with current market rents.

The Tenant of the first flat in her written representations detailed the outstanding repairs and submitted photographs of the required repairs. She stated during the inspection that the first flat should not have a higher rent than that at No. 262 Glasgow Road because the first flat was unimproved without double glazing.

The Tenant of the second flat in her written representations stated that similar available flats for rent were modernised with double glazing and central heating and she agreed with the Rent Officer's rent determination.

The Tenant of the third flat in his written representations agreed with the Rent Officer's rent determination.

The Committee considered all the written evidence, submissions and representations

together with the observations of Committee Members at the inspections. 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 carefully considered the submission from the Landlords' agents that there was no evidence of scarcity in the rental market. Whilst travelling to the inspections the Committee were aware of a proliferation of "To Let" signs in the West End of Glasgow and in Paisley. In Neilston Road, Paisley in close proximity to the third flat there were signs advertising two other flats for rent. Inquiries with a West End letting company produced an extensive list of available properties for rent. Internet sources similarly produced numerous properties for rent in each of the areas where the flats under consideration were located. A report prepared by citylets.co.uk into the 'Trends in Scottish Residential Lettings' for Winter 2008 states " Stocks of rental property in Scotland continued to climb throughout the last quarter of 2008 as more new supply from 'reluctant landlords' came onto the market. Properties took longer to let than in Q4 of last year (2007), rental growth is slowing and the year ahead looks to be very different to 2008".... "While greater choice of rental accommodation is good news for tenants established landlords face the prospect of longer voids as properties take longer to let and, with increased competition for tenants, the capacity for rental growth looks limited"... " It looks as if the upward trend in Glasgow may have come to an end with a fall in average rents to £567"...In Q4 2008, "the average time to let rose to 37 days (2 days longer than in Q4'07). Much of the rise can be attributed to one bedroom flats, where TTL's lengthened significantly". This evidence reinforces the Committee's view that the rapidly changing trends in residential lettings reflect the turmoil in financial markets and the economic slowdown. Rental stocks are rising as more owners unable to sell are entering the letting market and demand, although remaining relatively healthy by expectations of further house price declines and limited accessibility to mortgage finance, is dampening due to unemployment levels. Taking into account the plentiful supply of one and two bedroom flats and the average time to let in the area, the Committee concluded that at present there should be no scarcity deduction in the Glasgow area.

The Committee went on to consider which of the alternative methods of ascertaining a fair rent was the most appropriate in this case. The three accepted methods 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) of the said Act;
- (c) calculating the appropriate return based on capital value of the property, taking into account the element of scarcity.

None of these methods is regarded as the primary method.

(The first flat) There was no evidence produced by the parties regarding capital values and there was no evidence of registered rents decisions for comparable houses in the area. Given the lack of available evidence, the Committee decided that it was not appropriate to proceed on the basis of capital values or comparable registered rents. There was evidence of available rented accommodation in the vicinity of the first flat. The Committee accepted that the best evidence available was the evidence of market rents of similar flats within the area. The Committee considered the comparable given by the Landlords and other rents sought in the area for flats with similar accommodation. The Committee's investigation revealed that a modern improved flat in the vicinity but in a better location with similar accommodation is being advertised for rent at £4740 per annum. The Committee also considered the comparable referred to by the Landlords. The flat at No.262 is located directly across the road to the first flat and has one less bedroom but it has new double glazing and appears to have better amenities. The annual rent for this flat is £3900. The Committee considered that the market rent for a two bedroom unfurnished property in the area of a type similar to the first flat, even with such defects as had been identified and disregarding the Tenant's improvements, would be around £3900 per annum. This is consistent with the comparable property used by the Landlords when an allowance is made for one bedroom less in one property compared with double glazing and better amenities in the other flat. For the reasons already outlined, the Committee considered that no deduction should be made from the rent for scarcity as there was no market imbalance.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the first flat would be £325 per month, which equates to £3900 per annum.

(The second flat) The Committee then went on to consider the fair rent for the second flat. There is evidence of market rents and registered rents for flats in this location. Registered rent decisions were provided by the Clerk to the Committee but the Landlords' agents at the hearing argued that these decisions should be disregarded as they relate to flats in a less desirable area to the second flat and the registered rents are much less than market rents being achieved. There was evidence of a plentiful supply of rented accommodation available in the area. Having considered market rents for the area, the Committee were persuaded that market rents reflected more accurately the current rent. The Committee noted that a two bedroom improved furnished flat with gas central heating in the same street as the second flat was under

offer and the monthly rental sought for that property is £595. This rental equates to £7140 per annum. The Committee disregarded Tenant's improvements to the second flat and made a deduction from this comparable market rent for one less bedroom, the unimproved nature of the second flat, the absence of gas central heating and furnishings in the second flat, and the presence of some required repairs. The Committee determined, after considering all the available evidence, that a fair annual rent for the second flat would be £4800. This was cross checked against the rents being sought for other one-bedroomed flats in the vicinity. It was noted that a more improved one bedroomed flat was available for rent in unfurnished condition and with gas central heating and timber floors in Hyndland for £500 per month. Whilst return on capital values has 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 considered for the reasons already outlined that there should be no deduction from the rent for scarcity.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the second flat is £400 per month, which equates to £4800 per annum.

(The third flat) The Committee then went on to consider the market rent for the third flat. There was no evidence produced of capital values or registered rent decisions in the area. Committee investigations revealed that a rent of £260 per month is being sought for a well presented studio flat in Neilson Road. The comparable produced by the Landlords' agents indicated that a lease had been entered into at a rent of £325 for a one double-bedroom unfurnished flat at No.128 Neilson Road in February 2008. This flat is similar in type and character to the third flat although the third flat has a much smaller bedroom. The Committee mindful that there were no disrepairs complained of and no Tenant's improvements, assessed a fair monthly rental for the third flat as £275 to reflect the much smaller bedroom. The Committee considered for the reasons already outlined that there should be no deduction from the rent for scarcity.

The Committee, after considering all the available evidence, decided that the fair rent for the third flat is £275 per month, which equates to £3300 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 March, Two thousand and Nine.

A Devanny

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Chairperson,
12th March 2009