



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G12/696	21 May 2009	Landlord

ADDRESS OF PREMISES

2/1, 166 Great George Street, Glasgow, G12 8AJ

TENANT

M Nisbett

NAME AND ADDRESS OF LANDLORD

Mr A & Mrs I MacLean

AGENT

Hacking & Paterson
1 Newton Terrace
Glasgow
G3 7PL

DESCRIPTION OF PREMISES

Second loor flat in traditional sandstone tenement building C1890, with a gross internal area of 61 sq. m., comprising 2 rooms, dark kitchen, scullery and dark bathroom.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

S Walker Dip LP ACI Arb
M Links FRICS
C Harvey

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4,875.00 p.a.	12 August 2009	12 August 2009

S Walker

Chairman of Private Rented Housing Committee

Date

12 August, 2009



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTIES:

**M/D, 1 Great George Street, Glasgow
1/2, 5 Great George Street, Glasgow
2/1, 166 Great George Street, Glasgow
3/1, 166 Great George Street, Glasgow**

INSPECTIONS:

12 August, 2009

STATEMENT OF REASONS

INTRODUCTION

1. This is a reference to the Private Rented Housing Committee for the determination of a fair rent under the Rent (Scotland) Act 1984 in respect of;-

2. **M/D, 1 Great George Street, Glasgow** by the landlords, Mr. and Mrs. MacLean ("the landlords") agents, Messrs. Hacking & Paterson, in relation to the property at M/D 1 Great George Street, Glasgow ("property (1)") occupied by the tenant, Mrs. K Russell ("the tenant"). The original rent paid by the tenant was £3,400.00 per year. The landlords applied for a rent of £5,000.00 per year for the property. The Rent Officer determined a rent of £4,200.00 per year.

3. **1/2, 5 Great George Street, Glasgow** by the landlords, Mr. and Mrs. MacLean ("the landlords"), agents, Messrs. Hacking & Paterson, in relation to the property at 1/2 5 Great George Street, Glasgow ("property (2)") occupied by the tenant, Mrs. M Cave ("the tenant"). The original rent paid by the tenant was £3,750.00 per year. The landlords applied for a rent of £5,500.00 per year for the property. The Rent Officer determined a rent of £4,750.00 per year.

4. **2/1,166 Great George Street, Glasgow** by the landlords, Mr. and Mrs. MacLean ("the landlords"), agents, Messrs. Hacking & Paterson, in relation to the property at 2/1 166 Great George Street, Glasgow ("property (3)") occupied by the tenant, Mrs. M Nisbett ("the tenant"). The original rent paid by the tenant was £2,900.00 per year. The landlords applied for a rent of £4,700.00 per year for the property. The Rent Officer determined a rent of £4,100.00 per year.

5. **3/1, 166 Great George Street, Glasgow** by the landlords, Mr. and Mrs. MacLean ("the landlords"), agents, Messrs. Hacking & Paterson, in relation to the property at 3/1 166 Great George Street, Glasgow ("property (4)") occupied by the tenant, Mr. A McCulloch ("the tenant"). The original rent paid by the tenant was £2,900.00 per year. The landlords applied for a rent of £4,700.00 per year for the property. The Rent Officer determined a rent of £4,100.00 per year.
6. None of the parties requested a Hearing. Only the tenants attended the inspections.
7. The Committee comprised

Chairman	Mr. S Walker
Surveyor	Mr M Links
Housing Member	Mr C Harvey

THE DOCUMENTATION

8. The Committee had the following documents before it:

Property (1)
 9. RR1, the written representations from the landlords' agents dated 7th & 18th May, 2009 and from the tenant dated 23rd May, 2009 and comparable rents.
Property (2)
 10. RR1, the written representations from the landlords' agents dated 7th & 18th May, 2009 and comparable rents.
Property (3)
 11. RR1, letters from the landlords' agents dated 18th May and 9th June, 2009 and comparable rents.

Property (4)

12. RR1, letters from the landlords' agents dated 18th May and 9th June, 2009 and comparable rents.

THE INSPECTIONS

Property (1)

13. The Committee attempted to inspect the property on 12th August, 2009 and were unable to gain access to the property, but had sufficient comparable rent information to reach a decision.

Property (2)

14. The Committee inspected the property on 12th August, 2009. Mr Robert Shea, Clerk to Committee, introduced the Committee to the tenant. Only the tenant was present. The tenant advised the Committee that she had lived in the property for some 42 years and that new gas central heating was installed approximately five years ago. The kitchen was not modernised.

Property (3)

15. The Committee inspected the property on 12th August, 2009. Mr Robert Shea, Clerk to Committee, introduced the Committee to the tenant. Only the tenant was present. The tenant advised the Committee that she had lived in the property for some 40 years, that gas central heating had been installed 5 years ago, that the property was single glazed throughout, that there was a large crack in the living room ceiling which had been repaired 5 years ago, that there were cracks in the dining room ceiling and that the window in the scullery did not close and has had a gap at the bottom for 5 years.

Property (4)

16. The Committee attempted to inspect the property on 12th August, 2009 and were unable to gain access to the property, but had sufficient comparable rent information to reach a decision.

DESCRIPTION OF THE PROPERTIES

Property (1)

17. The property is a ground floor main door flat in a traditional three storey gray sandstone tenement building with a tiled roof built c. 1890, comprising 3 rooms, kitchen and bathroom. Timber sash and casement single glazed windows.

Property (2)

18. The property is a first floor flat in a traditional three storey and attic gray sandstone tenement building with a tiled roof built c. 1890, with a gross internal area of 108 sq.m. or thereby, comprising 5 rooms, dining kitchen and bathroom. 6 Flats in building. Door entry system. Tidy drying green. Single glazed sash and casement windows. Bathroom: older wash hand basin, modern bath, modern low level wc. Dining/Kitchen: Combi gas central heating boiler.

Property (3)

19. The property is a second floor flat in traditional four storey over basement gray sandstone tenement building with a tiled roof built c. 1890, with a gross internal area of 61 sq. m. or thereby, comprising 2 rooms, living/kitchen and dark bathroom. Door entry system.

Property (4)

20. The property is a third floor flat in traditional four storey over basement gray sandstone tenement building with a tiled roof built c. 1890, with a gross internal area of 61 sq. m. or thereby, comprising 2 rooms, kitchen, scullery and dark bathroom. Door entry system

DECISIONS AND REASONS

21. Section 48 of that Act as amended provides that:

48.— Determination of fair rent.

(1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the private rented housing committee, subject to the provisions of this section, to have regard to all 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, to the quantity, quality and condition of the furniture.

(2) 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 on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and

(b) any improvement (including any improvement to the furniture provided for use under the tenancy), or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his, and

(c) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

(4) In the application of this section to a converted tenancy, the references in subsection (3) above to the tenant under the regulated tenancy shall include references to the tenant under the tenancy before the conversion.

22. 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".*
23. 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))). The Committee was not made aware of any such defects in these particular cases (except for property (3) where the tenant advised the Committee of cracks in the dining room ceiling and that the window in the scullery did not close and has had gap at the bottom for 5 years) and no furniture is provided in terms of the tenancy. Improvements by the landlord should be taken into account. In reaching its determination, the Committee complied with its duty as set out above.
24. The Committee considered carefully all the evidence presented, together with the observations made by the Committee members at the inspections. In particular, the Committee considered carefully which of the three alternative methods of ascertaining a fair rent was most appropriate in this case.
25. 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.

26. 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.
27. In these cases, none of the parties produced any evidence as to capital values or market rents of comparable houses. However, the landlords' agents referred the Committee by letter dated 9th June, 2009 to registered rents of two properties at 168 Great George Street and also at one property at 6 Mingarry Street, Glasgow as comparable properties in relation to property (3) and (4).
28. 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. The Committee had the benefit of its own knowledge and experience of the rents passing and being asked in the local market as well as having evidence of three registered rents before it. In these circumstances, the Committee decided that the best method to use in these cases was the market rent less any discount for scarcity method at (b) above for property (1) and (2) and the registered rents method at (a) above for property (3) and (4).
29. 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.

30. 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. On the contrary, there appears to be a surplus of supply over demand in relation to the availability of properties for rent, which is the opposite of the scarcity situation. 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.
31. **As regards property (1)** the Committee from its own experience, knowledge and information available on the internet and from local letting agents considered that comparable properties for the rental of 2 bedroom properties in the Hillhead area of Glasgow ranged from £575.00 pcm to £750.00 pcm. The Committee was of the opinion that the appropriate market rent in respect of this property was £600.00 pcm which represented an average monthly rental figure for such a property from the information before it.
32. The Committee considered that a number of deductions should be made to take account of various factors. Prospective tenants are likely to be reluctant to incur the high costs of laying floor coverings and installing white goods, and even more reluctant to meet the costs of modernising the kitchen and bathroom. The Committee considered that these factors would adversely impact upon the level of rent likely to be achieved. The Committee considered that the appropriate Market Rent in respect of the property was £7,200.00 per year. The Committee further considered that a deduction was appropriate of £1600.00 per year in respect of improvements required for the installation of central

heating, double glazing, white goods, carpets, kitchen and bathroom fittings.

33. Accordingly, taking into account all the circumstances, which the Committee is required to take into account, the Committee concluded that a fair rent for property (1) would be **£5,600.00** per year.
34. As regards property (2) the Committee from its own experience, knowledge and information available on the internet and from local letting agents considered that comparable properties for the rental of 4 bedroom properties in the Hillhead area of Glasgow ranged from £895.00 pcm to £1,400.00 pcm. The Committee was of the opinion that the appropriate market rent in respect of this property was £900.00 pcm given the age and character of the property which placed it at the lower end of the rental price spectrum.
35. The Committee considered that a number of deductions should be made to take account of various factors. Prospective tenants are likely to be reluctant to incur the high costs of double glazing, laying floor coverings and installing white goods, and even more reluctant to meet the costs of modernising the kitchen. The Committee considered that these factors would adversely impact upon the level of rent likely to be achieved. The Committee considered that the appropriate Market Rent in respect of the property was £10,800.00 per year. The Committee further considered that a deduction was appropriate of £1800.00 per year in respect of improvements required for the installation of double glazing, white goods, carpets, and kitchen fittings.
36. Accordingly, taking into account all the circumstances which the Committee is required to take into account, the Committee concluded that a fair rent for property (2) would be **£9,000.00** per year.
37. As regards property (3) the Committee considered that registered rent for a comparable property at 168 Great George Street of

£3,900.00 per year contained within a PRHC Decision dated 8th February, 2009 is sufficient for the Committee to determine a fair rent in respect of this property. The Committee in the 168 Great George Street Decision had applied a 20% scarcity deduction. This Committee determined that there is currently no scarcity in this area and so re-applied the 20%.

38. Accordingly, the Committee concluded that a fair rent for the property (3) would be **£4,875.00** per year.
39. **As regards property (4)** the Committee considered that registered rent for a comparable property at 168 Great George Street of £3,900.00 per year contained within a PRHC Decision dated 8th February, 2009 is sufficient for the Committee to determine a fair rent in respect of this property. The Committee in the 168 Great George Street Decision had applied a 20% scarcity deduction. This Committee determined that there is currently no scarcity in this area and so re-applied the 20%.
40. Accordingly, the Committee concluded that a fair rent for property (4) would be **£4,875.00** per year.
41. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for;-

Property (1) is £5,600.00 per year;

Property (2) is £9,000.00 per year;

Property (3) is £4,875.00 per year;

Property (4) is £4,875.00 per year.

42. In reaching this decision, the Committee had regard to all the evidence, and to all the circumstances that must be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

S Walker

Signed

Steven P Walker

Advocate & Barrister

Chairman

Private Rented Housing Committee

11th September, 2009