



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G3/705	29 July 2009	Landlord

ADDRESS OF PREMISES

0/1, 4 Derby Street , Glasgow, G3 7TJ

TENANT

Mr W A Davidson

NAME AND ADDRESS OF LANDLORD

Trustees of Ben Shapiro

AGENT

Speirs Gumley Property Management
194 Bath Street
Glasgow
G2 4LE

DESCRIPTION OF PREMISES

Ground floor flat in traditional tenement block built circa 1900 in mixed residential/commercial use, comprising three bedrooms, livingroom, kitchen and bathroom. Double glazing.

Floor area 102 square metres or thereby

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING MEMBER

Mrs E Devanny LLB NP
Mr R Buchan BSc. FRICS
Mrs S Brown

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 6000.00 p.a.	15 September 2009	15 September 2009

A Devanny

Chairman of Private Rented Housing Committee

15th September 2009 .

Date



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Tuesday 15 September 2009

of the Properties

(FIRST) Flat 0/1, 4 Derby Street, Glasgow G3 7TJ
(hereinafter referred to as "the first flat")

(SECOND) Flat 2/1, 4 Derby Street, Glasgow G3 7TJ
(hereinafter referred to as "the second flat")

Reference RAC/G3/704

Reference RAC/G3/705

INTRODUCTION

Reference has been made to the Private Rented Housing Committee for the determination of fair rent for the first and second flats under the Rent (Scotland) Act 1984 ("the 1984 Act").

The Landlords of the first flat are Trustees of Ben Shapiro, whose agents are Spiers Gumley Property Management, 194 Bath Street, Glasgow G2 4LE. The Tenant of the flat is Mr. William A Davidson. The annual rent for the flat was last registered on 20 March 2003 at the figure of £1900. On 15 June 2009, the Landlords applied to have the annual rent increased to £4500. The Rent Officer determined the annual rent for the first flat at the figure of £3000 with effect from 21 July 2009.

The Landlords of the second flat are Trustees of Alexander Shapiro, whose

agents are Spiers Gumley Property Management, 194 Bath Street, Glasgow G2 4LE. The Tenant of the flat is Mrs. Maureen Johnstone. The annual rent for the flat was last registered on 10 March 2003 at a figure of £1800. On 15 June 2009, the Landlords applied to have the annual rent increased to £4300. The Rent Officer determined the annual rent for the second flat at the figure of £2900 with effect from 21 July 2009.

The references to the Private Rented Housing Committee have been submitted in both instances by the Landlords.

INSPECTION

(The First Flat) The Committee inspected the flat on the afternoon of 15 June 2009. At the inspection the Tenant and the Tenant's partner, Ms. Mandy Reid, were present. No Representative of the Landlords attended the inspection.

The flat is located on the ground floor of a four storey traditional grey sandstone tenement which was constructed circa 1900. The tenement has a tiled roof. There is a secure entry door to a communal close and the close was in reasonable decorative order and litter free at the time of inspection. There is a large communal rear back court and drying green which is accessed from the basement of the common close. The common close leading to the back court at basement level is in poor condition and passes the rear access door to an adjoining restaurant before leading to a secure external door and outside to a stone stair which leads from the basement to the ground level common back court. The width of this outside stone stair has been reduced by an extractor vent which protrudes over the stair resulting in persons having to use that part of the stair with the narrowest tread which is a safety hazard. Building works are ongoing to the adjoining hotel and scaffolding has been erected over the back court to provide access. The high back wall of the hotel forms one side of the back court and that wall is at right angles to the kitchen window of the first flat and reduces light to the kitchen. The rear communal back court and drying green at the time of inspection were very untidy with litter, abandoned domestic items and rubble. There is a communal bin store area located at the rear of the back court.

Double storm doors from the common close lead to a vestibule and then into the large hallway of the flat which has two hall cupboards. The flat has been recently renovated and rewired with hot water provided by combination boiler but there is no space heating provided by the Landlords. Off the hallway is a large living-room which overlooks the street, three bedrooms, dining kitchen with recess area and bathroom with modern white 3 piece suite and electric shower. During the recent renovations the Landlords have installed double glazing and modern kitchen units but no white goods. The Landlords provide no floor coverings, furniture or services. At the inspection the Tenant highlighted repairs which he stated detracted from his enjoyment of the flat and which he referred to in his

written submissions.

The flat is situated in a mixed commercial and residential block near shops, and transport links. It is situated between a large purpose built hotel on one side and a restaurant which occupies the ground and basement level on the other side. It is situated close to the city centre within walking distance of Kelvingrove Park, Glasgow University, the amenities of the West End and the Western Infirmary. Parking is on street with available spaces in close proximity of the flat at the time of inspection.

The gross internal floor area of the flat is 102 square metres or thereby.

(The Second Flat) A date was fixed for the inspection of the second flat and intimated to the Tenant but in the week before the inspection, she indicated that she would not be available to give access for an internal inspection of the property and indicated that rather than attend the hearing, she would submit a letter with details which she wished the Committee to consider. She was aware that the Committee would base their assessment of a fair rent on an external inspection and the written documentation and their views on the inspection of the neighbouring flat. Accordingly, the Committee did not carry out an internal inspection of the property and reached their conclusions on the basis outlined.

The Committee noted in the Application for Registration of Rent (Form RR1) that the second flat is described as 3 rooms, kitchen and bathroom. The Rent Register describes the accommodation as 3 rooms, kitchen-diner and bathroom. The application is silent with regard to heating. It is served by the same common close and back court as the first flat and the comments which are detailed with regard to these aspects under the inspection findings for the first flat apply similarly in this case. The Landlords' submissions indicate that this flat like the first flat was the subject of structural and fabric refurbishment, rewiring and redecoration, installation of a new kitchen and bathroom and double glazing and the Committee assumed that this flat is in the same renovated unfurnished condition to the first flat with no space heating and with the same disadvantages of location but with one less room than the first flat.

The floor area is unknown.

HEARING AND REPRESENTATIONS

The Tenant of the first flat intimated in writing that he wished to attend the hearing before the Committee. The Tenant of the second flat initially wished to attend the hearing but then indicated that she was unavailable and would send in a letter which she wished considered. The Landlords submitted written representations but did not wish to attend the hearing. The hearing with the Tenant of the first flat took place at that flat following the inspection.

The Landlords in their written representations stated that they had not applied for an increase in rent since 2003 until the present time due to the condition of the properties and the Rent Officer's decision in 2003 to increase the rent by nominal amounts. They submitted that the tenement building had recently undergone structural and fabric repairs which included the replacement of all windows, a complete rewire of the electrical installations together with the installation of new bathroom suites with showers, the installation of kitchen units and the complete redecoration of the flats. These repairs and the desirable location of the properties with easy access to leisure facilities such as Kelvingrove Park, shops, restaurants and public transport they asserted justify the rent increases sought. They considered that comparable rents for similar flats to the first flat range from £1095 to £1200 per month and an allowance of £100 per month should be made from these sums for the unfurnished nature of the first flat and the absence of white goods. In relation to the second flat they indicated that comparable rents to that flat would be in the range of £650 to £800 per month with an allowance of £80 per month for the unfurnished nature of that flat and the absence of white goods.

The Tenant of the first flat in his written representations and oral submissions at the hearing detailed the background to the renovation project, past maintenance problems, the lack of consideration and consultation by the Landlords, all as detailed in his written representations which are referred to for their terms. In addition he detailed present outstanding repairs which include difficulties opening the kitchen window and the poor finish of the new windows; tiling in the kitchen and bathroom which remains unfinished; the bathroom washbasin which requires to be completely fixed to the wall; a section of dampness near a pipe in the bathroom; soundproofing problems between the flat and the adjoining commercial properties; remedial work required to the external stonework; damage to fireplace tiles; the removal of original fittings and an aerial and the substitution of inferior fittings; the removal of a pulley; inferior decoration; and the failure to reconnect the Tenant's gas fires and bathroom heater. He indicated that these repairs detracted from his enjoyment of the flat. He highlighted the poor condition of the back court and the rubbish problems which had led in the past to rat infestations, the poor condition of the basement and safety issues of the outside stair; parking problems associated with the location; and the problems of noise and cooking smells and lack of privacy associated with living in a location adjacent to a hotel and a restaurant. The Tenant indicated that demand for flats was high in the area due to the high student population and that the rent increase sought was above the rate of inflation. He indicated that registered rents in the area were in the region of £3000 per annum but could provide no details of the size or condition of the properties he referred to or whether they included an adjustment for scarcity. He had no information of market rents in the area and made no representations about a fair return on capital value beyond providing details of prices attained for properties sold in the period 2003 to 2005. He concluded by submitting that the rent sought by the Landlords was too high and did not reflect that this was a regulated tenancy.

The Tenant of the second flat in her letter indicated that the rent being sought was in excess of her means. She indicated that her daughter who stayed with her had health problems. She stated that the flat had been improved but complained about the condition of the back court, and that there was no lighting which added to the dangers of the narrow stair to the back court. She also indicated that she had suffered considerable expense in replacing fixtures and fittings after the renovation and in particular had replaced a pulley and a door lock.

DECISION

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

1. RRI Applications for both flats dated 11 June 2009 and received on 15 June 2009.
2. Landlords' letters of appeal dated 24 July 2009.
3. Notifications of fair rent appeals from Rent Registration Service for the flats dated 27 July 2009.
4. Rent Register Pages.
5. Tenant's representations dated 11 August 2009 relating to the first flat.
6. Landlords' representations dated 5 August 2009 relating to the first and second flats.
7. Tenant's representations dated 5 August and 14 September 2009 relating to the second flat.
8. List of registered rent decisions compiled by the Clerk to the Committee relating to:
RAC/G3/692 1/3, 1172 Argyle Street, Glasgow G3 8TE
9. Statement of Reasons for rent determination for Flat at 1/3, 1172 Argyle Street, Glasgow dated 22 July 2009.

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 whether there was evidence of scarcity in the rental market. Whilst travelling to the inspections the Committee was aware of "To Let" signs in area. Inquiries with West End letting companies produced a list of available properties for rent. Internet sources similarly produced a number of properties for rent of similar sizes to the flats in the Glasgow area. Taking into account the plentiful supply of three and four apartment flats 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 these cases. 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 properties, taking into account the element of scarcity.

None of these methods is regarded as the primary method.

The First Flat

There was no recent evidence produced regarding capital market values and given the lack of available evidence, the Committee decided that it was not appropriate to proceed on the basis of an appropriate return on capital values.

The Committee considered that to establish a fair rent it was appropriate to compare open market rents for similar properties in the vicinity of the first flat. The Committee considered that the upgrading of the flat had been fairly basic and that the comparable evidence should be of the quality at the lowest end of the market. The Committee's investigations with letting agents and internet sources revealed that the lowest market rents for a four apartment property in a city centre location was around £750 per month (which equates to annual rent of £9000). From this monthly rental figure the Committee made deductions of £100 to reflect the unfurnished nature of the first flat and the absence of white goods, and £50 for the absence of central heating. The Committee was aware that the maximum rent for a flat of this size would invariably require a licence for a House

of Multiple Occupancy (HMO) as 3 or more persons cannot live in such a property unless they are related or the flat has an HMO license. The Committee made a deduction of £100 for market resistance to a flat of this size without such an HMO license, which was also next to two busy commercial premises imposing nuisance elements described by the Tenant and with a back court and access thereto in very poor condition. The Committee did not consider the lack of a pulley and the minor snagging repairs detracted substantially from the property. The Committee, after making the deductions for repairs, Tenant's improvements and the location of the flat as aforesaid, concluded that the market rent for the first flat should be £500 per month or £6000 per annum.

The Committee cross checked this figure by considering registered rents for comparable houses in the area. The figure quoted by the Tenant of £3000 per annum for registered rents in the area seemed well below the evidence of current market rents of similar unimproved flats in the vicinity. The Tenant was unable to give details of the size and condition of these registered rent comparables he referred to nor whether scarcity had been considered nor the rent assessment method used by the Rent Officer. The Committee went on to consider the rent registered after appeal for the flat at Flat 1/3, 1173 Argyle Street, Glasgow. This is a flat in close proximity to the first flat. However, the flat in Argyle Street is a two apartment tenement flat with kitchen and dark bathroom with double glazing and electric central heating with a gross internal floor area of 56 square metres or thereby. The first flat at Derby Street is a four apartment flat with dining kitchen and bathroom with double glazing and no space heating and the gross floor area is 102 square metres or thereby. It was noted that the rent assessed for the flat at Argyle Street was £4200 per annum inclusive of services. Although both flats had been improved and were in close proximity, they were substantially different in size and the first flat has two extra rooms and a dining kitchen and the room size was generally larger. However, the first flat did have disadvantages due to its location and its close proximity to a hotel and restaurant, and the condition of the back court and its access, and its lack of space heating. Both the first flat and the Argyle Street flat are unfurnished but certain services are provided to the flat at Argyle Street which when discounted brought the annual rent for Argyle Street flat to £4000 per annum. Making an adjustment for the differences between these two flats, the Committee considered that a rent of £6000 per annum would be a fair rent for the first flat at 0/1, 4 Derby Street which is consistent with the figure assessed by the Committee using the previous method of calculation.

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 first flat is £500 per month, which equates to £6000 per annum.

The Second Flat

The Committee considered the representations of the Tenant of the second flat. She had referred to her personal circumstances and her ability to pay the increased rent and her daughter's ill health. However, these are matter which are personal to the Tenant's circumstances and therefore must be disregarded by the Committee in terms of Section 48 of the 1984 Act. The other matters raised by the Tenant of the second flat related to similar complaints to those made by the Tenant of the first flat and these were reflected in the forgoing rental assessment for the first flat. The Committee considered a fair rent for the second flat could be arrived at by taking the rent assessed for the first flat and making a deduction of £50 per month to reflect that the second flat had one less room but would not suffer to the same degree the nuisance complaints associated with the adjoining restaurant situated on ground and basement level. The Committee considered that a rent of £450 per month would be a fair rent for the flat at 2/1, 4 Derby Street which equates to an annual rental of £5400.

In reaching these decisions, the Committee has had regard to all the requirements of Section 48 of the 1984 Act.

The decisions take effect from the Fifteenth day of September, Two Thousand and Nine.

A Devanny

Chairperson, ✓
15th September 2009