



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

**Notification Of Decision By The Private Rented Housing Committee**

<b>REFERENCE NO:</b>	<b>OBJECTION RECEIVED</b>	<b>OBJECTION</b>
RAC/G31/717	29 October 2009	Landlord

**ADDRESS OF PREMISES**

G/R, 34 Craigpark Drive, Glasgow, G31 2NP

**TENANT**

Mrs C Sleigh

**NAME AND ADDRESS OF LANDLORD**

Mrs F Cairns & Others

**AGENT**

MacFie & Co  
5 Cathkinview Road  
Glasgow  
G42 9EA

**DESCRIPTION OF PREMISES**

Ground floor flat in red sandstone tenement C.1900 with double glazing, comprising entrance hall, living room, 1 bedroom, kitchen and bathroom.

**SERVICES PROVIDED**

None

**COMMITTEE MEMBERS**

**CHAIRMAN**

S Walker LLB(Hons) Dip LP ACI Arb

**SURVEYOR**

S Hesp MRICS

**HOUSING PANEL MEMBER**

C Harvey

**FAIR RENT**

£ 3,900.00 p.a.

**DATE OF DECISION**

12 February 2010

**EFFECTIVE DATE**

12 February 2010

**S Walker**

**Chairman of Private Rented Housing Committee**

12<sup>th</sup> February, 2010

Date



**PRIVATE RENTED HOUSING COMMITTEE  
STATEMENT OF REASONS**

**prhp**  
**- 5 MAR 2010**  
**received**

**PROPERTY:**

**G/R 34 Craigpark Drive, Glasgow**

**INSPECTION:**

**12<sup>th</sup> February, 2010**

## 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 by the landlord's agent, Macfie & Co on behalf of Mrs. F Cairns & Others ('the landlord'), in relation to the property at G/R 34 Craigpark Drive, Glasgow.
2. The original rent paid by the tenant, Mrs Catherine Sleigh ('the tenant') in respect of property was £2,315.00 per year. The landlord applied for rents of £3,000.00 per year for the property. The Rent Officer determined a rent of £2,645.00 per year. The landlord has referred the Rent Officers determination to the Private Rented Housing Committee.
3. The tenant was represented by her daughter, Ms. Lynne Burrows and the landlord was represented by their agent's employee, Mr. John Walker. Both attended the inspection and with the consent of both parties, the Hearing was held in the property immediately following the inspection.
4. The Committee comprised

Chairman	Mr. S Walker
Surveyor	Mrs S Hesp
Housing Member	Mr C Harvey

### THE DOCUMENTATION

5. The Committee considered all the documents referred to it by the parties. In particular, the application and the written representations from both the tenant and landlord.

## **THE INSPECTION & HEARING**

6. The inspection took place on 12<sup>th</sup> February, 2010. The tenant's representative allowed access to the Committee and to the landlords' agent, who also attended the inspection.
7. Mr Walker, Chairman of Committee, introduced the Committee to the parties. The Committee proceeded to inspect the property.
8. Following the inspection, the Chairman convened the Hearing in the property and gave each party an opportunity to address Committee. The tenant's representative advised Committee that she had concerns over the state of disrepair of the bathroom ceiling. The Chairman advised that the Committee did not have jurisdiction to consider this issue and that would require to be the subject of a fresh application to the PRHP should the tenant so wish. The tenant further advised she was neutral on the question of a fair rent given that the social security department was funding the rent in any event. The landlord's agent advised Committee that the rental of an upgraded property of this type in the current market was likely to be in the region of £400-£425 per month, producing an annual rental figure of around £4,800.00. He supported this with reference to a directly analogous modernised property currently for rent at 142 Roslea Drive, Glasgow for an asking rent of £450.00. He further advised that appropriate deductions would be required to this figure to take account of upgrades required to the kitchen, bathroom etc. He advised the appropriate deduction was £1,000.00 over a 10 year period. This would produce a revised current fair rent figure of £3,800.00 per year which is the revised sum the Landlord is now seeking.

## **DESCRIPTION OF THE PROPERTY**

9. The property is a ground floor flat in red sandstone tenement built c.1900 comprising of 8 flats. The property comprises of entrance hall,

living room, 1 bedroom, kitchen and bathroom and is double glazed throughout. The kitchen and bathroom are dated and in need of modernisation. The tenant has resided in the property since 1947. The tenant installed gas central heating and a bathroom. The tenant also divided the bathroom to create a kitchenette and disabled shower room. The landlord installed UPVC doubling glazing throughout the property approximately 2 years ago. There is a private garden to the front and a shared drying green and garden to the rear.

### **DECISIONS AND REASONS**

10. 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.*

11. 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".*

12. 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 this particular case (other than some normal external settlement for a building of this age), 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 *supra*.

13. The Committee considered carefully all the evidence presented, together with the observations and submissions made by the tenant's representative and landlord's agent. In particular, the Committee considered carefully which of the three alternative methods of ascertaining a fair rent was most appropriate in this case.

14. 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.

15. In this case, the landlord's agent produced evidence as to market rents of a comparable property.
16. 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. In these circumstances, the Committee decided that the best method to use in this case was the market rent less any discount for scarcity method at (b) *supra*.
17. In addition to the information supplied by the parties, 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 1 bedroom properties in the Dennistoun area ranged from £400.00 pcm to £450.00 pcm. The Committee was of the opinion that the appropriate starting market rent in respect of the property, given no scarcity, was the lower end of the spectrum of approximately £400.00 pcm (£4,800.00 per year).
18. 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.

19. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the area of Dennistoun 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.
  
20. The Committee considered that a number of deductions should be made to take account that any new tenant would require a new kitchen, new white goods, new bathroom, central heating (the tenant's improvement cannot be taken into account), furnishings and floorings in respect of the property. The Committee considered that the appropriate market rent in respect of the property was £4,800.00 per year. The Committee further considered that a deduction was appropriate of £900.00 per year in respect of improvements which would be required to the kitchen, white goods, bathroom, central heating, furnishings and floorings of the property.
  
21. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was **£3,900.00**



per year (£325.00 per month). 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**

**17<sup>th</sup> February, 2010**