



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:

RAC/G11/726

OBJECTION RECEIVED

24 December 2009

OBJECTION

Landlord

ADDRESS OF PREMISES

Main Door, 93 Turnberry Road, Glasgow, G11 5AS

TENANT

Mr Morrow

NAME AND ADDRESS OF LANDLORD

AA Properties
3 Grantley Street
Shawlands
G41 3PT

AGENT

Personal Letting
3 Grantley Street
Shawlands
G41 3PT

DESCRIPTION OF PREMISES

Basement flat in a 3 storey and basement grey sandstone & tile tenement built C.1880 comprising 5 apartments, internal kitchen and bathroom.

Gross internal floor area is approximately 120 sq. m.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

A Devanny LLB NP
A English FRICS
S Brown

FAIR RENT

£ 6,800.00 p.a.

DATE OF DECISION

5 March 2010

EFFECTIVE DATE

5 March 2010

A Devanny

Chairman of Private Rented Housing Committee

5th March 2010

Date



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Friday 5 March 2010

Of the Property at

Main Door Basement Flat at 93 Turnberry Road, Glasgow G11 5AS
(hereinafter referred to as "the flat")

INTRODUCTION

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

The Landlords of the flat are AA Properties, whose agents are Personal Lettings, 3 Grantley Street, Shawlands, Glasgow G41 3PT. The Tenant of the flat is Mr. Alex Morrow. The annual rent for the flat was last registered on 9 January 2006 at the figure of £3200. On 4 November 2009, the Landlord applied to have the annual rent increased to £8400. The Rent Officer determined the annual rent for the flat at the figure of £6200 with effect from 9 January 2010.

The reference to the Private Rented Housing Committee has been submitted by the Landlords.

INSPECTION

The Committee inspected the flat on 5 March 2010. At the inspection the Tenant and the Tenant's wife, Mrs. Mamie Morrow, were present. No Representative of the Landlords attended the inspection.

The flat is located at basement level of a three storey and basement traditional grey sandstone tenement which was constructed circa 1880. The tenement has a tiled roof. The flat is situated in a desirable residential area with good access to shops and excellent transport links. Parking is on street and at the time of inspection there was difficulty locating a vacant parking space. Entry to the flat is down some concrete steps and through a small front garden which is used exclusively by the Tenant who has cultivated and maintains this area. The Tenant indicated that he had installed the hand rail next to the concrete steps. Externally the structural condition of the property is satisfactory.

Double storm doors lead to a vestibule and then into the hallway which has two walk in cupboards off. The Tenant complained of dampness in both these cupboards and the larger of the cupboards had a cracked window adjoining a common close. The age of the electrical fuse box in the hall indicates that the flat has been rewired though not recently. Off the hallway, there is a large corner lounge with two double windows, three double bedrooms, a living-room with internal kitchen off and narrow bathroom with a basic modern white 3 piece suite and no shower. The Tenant indicated that when he originally took the tenancy there was no kitchen as such but an old wash stand in the room which is now the living-room and he carried out alterations to create an internal kitchen and living-room and he has provided the free standing stainless steel sink unit in the kitchen and wall and base units. There are no white goods, carpets, floor coverings, furniture or services provided by the Landlords. The Tenant has carried out improvements to the flat which were disregarded for the purposes of the inspection. The flat has the original sash and case timber windows which have draught excluders. The gas fire and stone fire surround in the lounge belong to the Tenant and the Tenant has provided an electrical heater in the bathroom. Space heating and hot water are provided by combi-boiler. The central heating system was installed under the Scottish Government Heating Programme and is maintained by the Landlords. The Committee noted some cracks in the plasterwork on some ceilings but such cracking was consistent with the age of the property.

The communal rear garden and drying green is accessed by an external door leading off the living-room into the common close. The rear garden area at the time of inspection was tidy and tastefully laid out to grass and shrubs which were reasonably well tended. There is a communal bin store located at the rear of the communal garden and there is access from the garden to a lane by a timber gate.

The gross internal floor area of the flat is approximately 120 square metres.

HEARING AND REPRESENTATIONS

The Landlords' agent, Mr Colville Johnstone, and the Tenant and his wife attended the hearing at the offices of Private Rented Housing Panel at West Campbell Street, Glasgow following the inspection.

The appeal from the Landlords is based on the suggestion that a higher rent be registered more in keeping with current market rents. At the hearing the Landlords' agent reiterated his written representations that the current rent of £270 per month for the flat is lower than the rent being charged for a studio flat in Govanhill, an area not as desirable as that of the flat under consideration. The rent level determined by the Rent Officer is he suggested too low and reflects more a market rent for a one bedroom flat in the West End of Glasgow. He submitted that comparable unfurnished 2/3 bedroom flats in a similar location are attaining monthly rents of £795 or more and as an example referred to a 3 bedroom flat in a less desirable area to Turnberry Road at 57A St. Vincent Crescent managed by his firm with a rental income of £795 per month. He advised that the request for a rent increase followed upon the Landlords' purchase of the flat as part of a portfolio of tenanted properties and the review of the rents by his firm as managing agents. He accepted that the previous owners of the flat had not been good at carrying out repairs and the Tenant had carried out repairs and improvements to the flat. When the methods of calculating a fair rent were explained, he suggested that a fair return would be 6% per annum on a conservative capital value of the flat of £200,000. Finally, he reiterated his position that the rent assessed by the Rent Officer did not represent a fair market rent for the flat taking into account its location, the size of the accommodation and comparable rents for similar properties in the area. The Landlords' agents mentioned in their application that major roof repairs had been undertaken to the tenement since the previous rent registration.

The Tenant in his representations emphasised the excessive increase in the rent being more than double the existing rent; that no improvement works of any nature had been undertaken to the flat by the Landlords; that the present Landlords purchased the flat with him and his wife as sitting tenants; and the repairs which he had required to carry out over the years such as clearing the outside drain. He pointed out that when he took on the tenancy 37 years ago, the basement flat was very basic and he has been a good tenant and carried out repairs and improvements over the years. He highlighted that he had carried out improvements such as fitting a hand rail at the outside step; fitting a new double glazed window in the living room, creating the internal kitchen; and arranging for the installation of central heating under the Government scheme. He also mentioned that as an occupier of a basement flat there had been security issues and they had been broken into twice. He concluded that the Rent Officer's assessment of a fair rent was in his opinion high but he was willing to accept it but disputed the rental level sought by the Landlords.

Neither the Landlords' agent nor the Tenant disputed that numerous properties are currently available for rent in the Glasgow area.

DECISION

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

1. RRI Applications for the flat, dated 26 October 2009.
2. Landlords' letters of appeal dated 18 December 2009.
3. Notification of fair rent appeal from Rent Registration Service dated 21 December 2009.
4. Rent Register Pages.
5. Landlords' representations dated 7 January 2010.

6. Tenants' representations dated 8 January 2010.
7. List of registered rent decisions compiled by the Clerk to the Committee relating to:
RAC/G11/688 2/1, 34 Chancellor Street, Glasgow G11 5RL

The Committee considered all the evidence, 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, and noted that whilst travelling to the inspection the Committee was aware of a proliferation of "To Let" signs in the inspection area. Inquiries with West End letting companies produced an extensive list of available properties for rent. Internet sources similarly produced numerous properties for rent in the area where the flat under consideration is located. A report prepared by citylets.co.uk into the 'Trends in Scottish Residential Lettings' for Winter 2009 states that time-to-let periods in Glasgow saw one bedroom properties taking an average of 32 days to let and two bedroom properties taking an average of 35 days to let. Figures are not available for three bedroom properties. Taking into account the plentiful supply of 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 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' agent for rent sought in the area for a flat with similar accommodation. The Committee's investigations revealed that on average improved quality furnished three bedroom tenement flats in the vicinity of Turnberry Road with double glazing and gas central heating are being advertised for rent at around £1,000 per month. From this figure the Committee made deductions of £125 to reflect the unfurnished nature of the flat, the absence of double glazing, white goods, floor coverings and carpets. A further £100 deduction was made to reflect the Tenant's improvements and for market resistance to a bare shell, which equates to a monthly rent after these deductions of £775. The Committee considered the very basic nature of the kitchen and bathroom and the capital outlay required to upgrade these rooms to the improved standard of the comparables and considered that the installation of a new quality bathroom and kitchen would cost in the region of £15,000. Taking straight line depreciation on £15,000 over 10 years, the Committee considered that a sum of £1,500 per annum should be deducted from the estimated rent of the flat to compensate for the unimproved nature of the kitchen and bathroom, giving an annual rental figure of £7800. Finally, the Committee considered that the rent should be adjusted by £1000 per annum to reflect market resistance to a basement flat without a Home in Multiple Occupation (HMO) License which has had security issues and requires repairs for damp and to the drains. 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 disregards for Tenants improvements and deductions as aforesaid, concluded that the market rent for the flat should be £6800 per year

Given the lack of available evidence, the Committee decided that it was not appropriate to proceed on the basis of comparable registered rents.

The Committee considered capital values but given the wide diverging views on "appropriate return", ranging from bank base rate of 0.5%, savings rates averaging 3% to the Landlords' figure of 6%, the Committee did not consider this was the preferred method for ascertaining a fair rent.

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 Fifth day of March, Two Thousand and Ten.

A Devanny

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Chairperson,
5th March 2010