



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

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

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G3/692	18 May 2009	Landlord

**ADDRESS OF PREMISES**

1/3, 1172 Argyle Street, Glasgow, G3 8TE

**TENANT**

Ms A McColl & Ms ME Evans

**NAME AND ADDRESS OF LANDLORD      AGENT**

Glasgow West H.A.  
5 Royal Crescent  
Glasgow  
G3 7SL

**DESCRIPTION OF PREMISES**

Modernised first floor traditional tenement flat circa 1900 with double glazing and electric wet system central heating comprising living room one bedroom, kitchen and dark bathroom.

Gross internal floor area is 56 metres square.

**SERVICES PROVIDED**

Door entry, communal t.v. aerial, close cleaning, backcourt maintenance, common electrics and association admin.

**COMMITTEE MEMBERS**

<b>CHAIRMAN</b>	Mrs A Devanny LLB NP
<b>SURVEYOR</b>	Mr M Links FRICS
<b>HOUSING MEMBER</b>	Mr S Campbell

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4200.00 p.a (Inclusive of services of less than 5% variable).	22 July 2009	16 May 2009

**A Devanny**

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**Chairman of Private Rented Housing Committee**

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**Date**

22 July 2009



## PRIVATE RENTED HOUSING COMMITTEE

### STATEMENT OF REASONS

In connection with

Inspection held on Wednesday 22 July 2009

of the Property

Flat 1/3, 1172 Argyle Street, Glasgow G3 8TE  
(hereinafter referred to as "the flat")

**Reference RAC/G3/692**

#### 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 Glasgow West Housing Association Limited, 5 Royal Crescent, Glasgow G3 7SL. The Tenants of the flat are Ms. A McColl and Ms. M. E. Evans. On 16 February 2009, the Landlords applied to have the annual rent increased to £2839.67. The previous rent was £2307.00 per annum. The Rent Officer determined a rent of £2707.00 per annum, with effect from 16 May, 2009. The reference to the Private Rented Housing Committee has been submitted by the Landlords.

#### INSPECTION

The Committee inspected the flat on the morning of 22 July 2009. Present at the inspection were the Tenant, Ms. A McColl, and the Landlord's representative, Mr. Neil McKenzie, Senior Property Services Officer of Glasgow West Housing Association Ltd.

The flat is located on the right hand side of the first floor of a four storey traditional buff 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 and stairs were in reasonable decorative order and litter free at the time of inspection. The communal rear slabbed backcourt and drying green is accessed by an outside stair from a secure external door leading off the common close. The rear communal backcourt and drying green at the time of inspection were tidy and laid out to grass which was well tended. There is a communal bin store area located at the rear of the backcourt. Access to the back court, drying green area and communal binstore is obtained from a lane which runs to the rear of the tenement. The Committee were advised that old settlement to the tenement building had been addressed by remedial works.

The accommodation comprises a hallway with a large cupboard, a livingroom, one bedroom, dining kitchen and dark internal bathroom. The property has double glazing, and a recently installed electric wet heating system which provides space heating and hot water. The hot water immersion heater has been retained as an alternative system for heating water. The bathroom has a modern white 3-piece bathroom suite and the Tenants have installed an electric shower. The kitchen units and sink unit are modern and were provided by the Landlords with the cooker and extractor fan and white goods provided by the Tenants. The flat has been rewired. The tiled floors in the kitchen and bathroom have been provided by the Tenants and the Tenants have also replaced skirtings and door frames in most rooms as well as providing laminate floor coverings. The Tenant has also tiled part of the walls in the kitchen and bathroom. The Tenants' improvements to the flat were disregarded for the purposes of the inspection. The Tenant complained that condensation was gathering between the sealed glass panes in some of the double glazed window units.

The services provided by the Landlords are the door entry system, TV aerial, communal electricity for the close lighting, close cleaning, garden maintenance and association administration costs.

The flat extends to 56 square metres or thereby.

The flat is situated above shops on a busy main road with public transport links in close proximity. The property is situated within walking distance of Glasgow University, two hospitals, and the popular West End. Restricted parking is on street with available spaces just outside the flat at the time of inspection.

#### HEARING AND REPRESENTATIONS

A Hearing before the Committee took place at the offices of the Private Rented Housing Panel at 140 West Campbell Street, Glasgow following the inspection. Present at the Hearing was the Tenant, Ms Angela McColl, and the Landlords' representatives, Mr. Neil McKenzie, and Ms. Avril Stewart, Tenancy Services Manager of the Glasgow West Housing Association Ltd.

The Tenant of the flat in her written representations emphasised the large increase in the rent of £40 per month which was disproportionately high when compared to the rent increase of £15 per month for a smaller one bedroom Housing Association flat in the vicinity to her own. Although not entirely happy with the Rent Officer's

assessment of a fair rent which amounted to an increase of £28 per month in her rent, she indicated that she would accept it. The Landlords made no written representations.

At the hearing the Tenant indicated that the Landlords were a charitable organisation and should not be looking to charge rents at the same level as private Landlords. She reiterated that the rent increase sought by the Landlords was too high and that the new heating system installed by the Landlords the previous year although an efficient system for space heating had considerably increased her heating bills. She stated that market rents of one-bedroom flats in the area were in the region of £400- £500 per month but these were private flats let to students with two students being accommodated in a one bedroom flat. She was unable to suggest a capital value of the property. She was not able to comment on the comparable properties included in the list provided by the Clerk. She accepted that the repair record of the Landlords was good and that the subsidence repairs did not impact on her enjoyment of the property. She indicated that the windows should be replaced as the double glazing was quite old and condensation was forming between the glass panes. The Landlords' representatives indicated that major repairs would be considered in the major repair programme which was a rolling programme financed from a sinking fund. In relation to the service charges, the Tenant indicated that she did not use the back court and drying green partly because of concerns about the paths being slippery and also due to security concerns and, therefore, did not think she should have to contribute to the maintenance costs associated with garden maintenance. She also complained that the number of bins provided by the Local Authority were inadequate and if more bins were provided then the communal bin store would be too small to accommodate them.

Ms. Stewart, for the Landlords, advised the Committee that the Landlords strive to provide affordable housing and that the rents charged are among the lowest in the area. She explained that they had a formula for calculating the rents to try to ensure fairness and that the Landlords consult with their tenants when considering capital programmes, and increases in rent and service charges. She stated that they encouraged tenants to compare electricity quotes to ensure they received the cheapest tariff. She was unable to give an approximate capital value of the property and did not comment on the registered rent comparables produced by the Clerk. She did point out that the rent increase sought was the first in three years and, therefore, it was higher than an annual increase. She indicated that the committee should ignore that the Landlords in this case were a Housing Association in the assessment of a fair rent for the property. She produced a list of ten one-bedroom flats for rent currently in the G3 postcode from one letting agent. The rents for these comparables ranged from £425 to £450 per month with the asking rent for one flat in Argyle Street being £450 per month. Mr. McKenzie accepted that the path gradient in the back court was severe but stated that the back steps and paths were regularly de-mossed to try to prevent slippage.

On the issue of scarcity, the Tenant and the Landlords agreed that there is a plentiful supply of properties being advertised for private let in the Glasgow area.

## DECISION

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

1. RRI Application for the flat, dated 30 January 2009 and received on 16 February 2009.
2. Landlords' letter of appeal dated 1 May 2009.
3. Notification of fair rent appeal from Rent Registration Service for the flat dated 6 May 2009.
4. Rent Register Page.
5. Tenant's representations dated 21 May 2009.
6. List of registered rent decisions compiled by the Clerk to the Committee relating to:

RAC/G3/638 1/1, 32 Minerva Street, Glasgow G3 8LD  
RAC/G3/628 1/1, 24 Nairn Street, Glasgow G3 8SF

7. Letting Schedules for various G3 postcode properties for rent referred to by Ms. Stewart at the hearing.
8. Statement of Reasons for rent determinations for Flats at 1/1, 32 Minerva Street, Glasgow dated 7 July 2008; 1/1, 24 Nairn Street, Glasgow dated 12 May 2008; and 1/3, 1172 Argyle Street, Glasgow dated 27 June 2006.
9. Secure Tenancy Agreement between the Landlords and the Tenants with addendum thereto for a joint tenancy. It was noted that at Clause 4 of the lease that door entry, tv aerial, common electricity, close cleaning, garden maintenance and Association administration are compulsory services. Clause 4 of the lease reserves the right to have a fair rent registered.
10. Notice of Service Charges dated 25 February 2009 and Schedule advising that a service charge of £13.15 each month would be due from 28 March 2009.

The Committee considered all the written evidence, submissions and representations together with the observations of Committee Members at the inspection.

The Committee was mindful 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.

Section 49(1) of the Rent (Scotland) Act 1984, as amended, which provides that

" The amount to be registered as the rent of any dwelling-house shall include any sums payable by the tenant to the landlord for the use of furniture or for services, or in respect of Council Tax whether or not those sums are separate from the sums payable for the occupation of the dwelling-house or are payable under separate agreements."

The effect is that whatever sum is registered as the rent of the dwellinghouse, that sum includes the service charge and, except where section 49(6) of the 1984 Act applies, the Landlord is not entitled to make a charge beyond the registered rent.

- Section 49(6) of the Rent (Scotland) Act 1984 provides that

"Where... the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord... the amount to be registered... as rent may if the .....rent assessment committee are satisfied that the terms as to the variation are reasonable, be entered as an amount variable in accordance with those terms."

- Section 49(2) of the Rent (Scotland) Act 1984 requires that the amount fairly attributable to services should be noted separately on the register; except where that amount is less than 5% of the registered rent (Section 49(3)).

The Committee carefully considered whether there was evidence of scarcity in the rental market. 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. 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.

There was no evidence produced regarding capital 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 flat. The Committee's investigations with letting agents and internet sources revealed that on average improved furnished one-double bedroomed tenement flats in the vicinity of Argyle Street with double glazing and central heating are being advertised for rent at around £400 per month (which equates to annual rent of £4800 ). From this monthly rental figure the Committee made deductions of £50 to reflect the unfurnished nature of the flat at 1/3, 1172 Argyle Street, the absence of white goods and floor coverings, and the tenant's improvements in the flat. The condensation in the glazed units is so minimal as to have no effect on the rent charged. The Committee concluded that the market rent for the flat should be £350 per month or £4200 per year.

The Committee cross checked this rent assessment by considering registered rents for comparable houses in the area. The Committee noted that the rent for flat 1/1, 24 Nairn Street had been determined by PRHP and a copy of the Statement of Reasons was before the Committee and the annual rent for this property had been determined at £3000. It was noted that the flat at 1/1, 24 Nairn Street comprised 1 room, living kitchen and bathroom. It was an unimproved flat in a residential area with single glazed windows, old wiring, no kitchen units, and no space heating. The flat under consideration by the Committee at 1/3, 1172 Argyle Street in comparison comprises 2 rooms, dining kitchen and dark internal bathroom. This flat whilst situated above shops is situated in a sought after area, is modernised and has double glazing, been rewired and has space heating. The Committee considered that based on this comparable registered rent that a annual rent of £4200 for the flat at 1/3, 1172 Argyle Street would be a fair rent.

The Committee considered for the reasons already outlined that there should be no deduction from the rent for scarcity.

The Committee considered the charges made for services. They noted that the service charges are contractual and they noted that reasonable terms of variation were contained in Clause 4 of the lease. The Tenant felt that she should not have to pay for garden maintenance as she did not use the back court but her obligation to pay is based on the lease agreement and her contractual obligations.

The projected figures for 2009 for services are as follows:-

- Cleaning                      £774
- Gardening                     £500
- Electricity                     £ 50
- Assoc. Admin                 £79.44

The first three sums are divided amongst the 9 residents and the Association Admin costs amongst 6 tenants. This gives an annual service charge of £157.82 which equates to a monthly service charge of £13.15. The Committee considered the projected costs to be reasonable.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the flat is £350 per month, which equates to £4200 per annum (inclusive of services of less than 5% variable).

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

As the Landlords are a Housing Association, Section 60(2) of the Rent (Scotland) Act 1984 applies, and the effective date is the date the Rent Officer's rent was registered, therefore the decision takes effect from the Sixteenth day of May, Two Thousand and Nine.

# A Devanny

Chairperson,  
22nd July 2009

