



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G3/693	18 May 2009	Landlord

ADDRESS OF PREMISES

18 Belmont Street, Glasgow, G12 8EY

TENANT

Mr & Mrs Moore

NAME AND ADDRESS OF LANDLORD AGENT

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

DESCRIPTION OF PREMISES

Modern three storey townhouse built 1997 with double glazing and gas central heating comprising two public rooms, three double bedrooms, kitchen and two bathrooms.

Gross internal floor area is 98 metres square.

SERVICES PROVIDED

Communal t.v. aerial, stair/window cleaning, communal garden/ backcourt maintenance, private garden fee, cyclical maintenance (roof inspection and servicing) and association admin.

COMMITTEE MEMBERS

CHAIRMAN	Mrs A Devanny LLB NP
SURVEYOR	Mr M Links FRICS
HOUSING MEMBER	Mr S Campbell

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£6600.00 p.a. (Inclusive of services of £336.53p.a. variable).	22 July 2009	30 May 2009

A Devanny

Chairman of Private Rented Housing Committee

22 July 2009.

Date



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Wednesday 22 July 2009

of the Property

18 Belmont Street, Glasgow G12 8EY
(hereinafter referred to as "the house")

Reference RAC/G12/693

INTRODUCTION

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

The Landlords of the house are Glasgow West Housing Association Limited, 5 Royal Crescent, Glasgow G3 7SL. The Tenants of the house are Mr. Edwin Moore and Mrs. Fiona Moore. On 2 March 2009, the Landlords applied to have the annual rent increased to £4391.88. The previous rent was £3550.00 per annum. The Rent Officer determined a rent of £4150.00 per annum, with effect from 30 May 2009. The reference to the Private Rented Housing Committee has been submitted by the Landlords.

INSPECTION

The Committee inspected the house on the morning of 22 July 2009. Present at the inspection were the Tenant, Mr Edwin Moore, and the Landlords' representative, Mr. Neil McKenzie, Senior Property Services Officer of Glasgow West Housing Association Ltd.

The property is a 3-storey mid-terraced town-house built of brick with a mansard tiled roof constructed around 1997. There is a very small grassed area to the front of the house. The front door leads into a hall with storage cupboard and off the hall on the ground floor is a dining room leading to the kitchen. Double glazed patio doors lead from the kitchen onto a paved back court/ drying area which is for the exclusive use of the Tenants. A secure large storage cupboard containing the utilities is accessed from the rear backcourt. Access to the back court area is obtained from a road and parking area which runs to the rear of the terraced houses. The Committee did not see any abandoned rubbish to the rear of the house at the time of inspection. There is no dedicated parking space to the rear of the property allocated to the Tenants. The kitchen units are modern and have been provided by the Landlords with white goods and the cooker belonging to the Tenants. The laminate floor in the kitchen has been fitted by the Tenants. It was noted that some kitchen unit doors were missing and others did not fit properly and required adjustment.

The accommodation on the upper floors comprise livingroom, 2 bathrooms each with modern white 3-piece bathroom suites but with no showers; three double bedrooms, one with fitted wardrobes; and a large hall cupboard. Floor coverings are provided by the Tenants. The property has timber framed double glazed windows, and a combi-gas central heating system which provides space heating and hot water. The Tenants' improvements to the house were disregarded for the purposes of the inspection. On examination of the timber frame of the circular window in the main bedroom, the Committee observed a small section of rotten timber and some evidence of water staining on the internal sill. The Landlords' agent explained that efforts were being made to rectify this problem although to date, the attempts had been unsuccessful.

The services provided by the Landlords are TV aerial , communal garden maintenance, communal garden fee, cleaning, cyclical maintenance and association administration costs.

The house extends to 98 square metres or thereby.

The house is situated on a residential street with shops and public transport links in close proximity. The property is situated within walking distance of Glasgow University, and the popular West End. Restricted parking is on street with available spaces just outside the flat at the time of inspection. The Tenants have a key to use the owners' communal garden to the front of the property on Belmont Street.

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 Tenants, Mr. Edwin Moore and Mrs. Fiona Moore, and the Landlords' representatives, Mr. Neil McKenzie, and Ms. Avril Stewart, Tenancy Services Manager of Glasgow West Housing Association Ltd.

The Tenants of the house in their written representations emphasised that they received tax credits and they considered the size of the proposed rent increase to be unfair. They also refered to the outstanding repair in the circular bedroom window and the defects to the doors of the kitchen units. They complained about the back of

Colebroke Street which faced their rear back court and the rubbish which was discarded in this area and which they indicated detracted from the house. The Landlords made no written representations.

At the hearing the Tenants indicated that the Landlords were a charitable organisation and should not be looking to charge rents at the same level as private Landlords. They stated that the Landlords should be providing affordable houses for local people. Mr. Moore reiterated that the rent increase sought by the Landlords was too high and highlighted that the heating system was unreliable and broke down regularly; that the kitchen units and circular window in the main bedroom required repair; that there was a soundproofing issue with a neighbouring house, and that the property did not have a shower. He was asked his views on rents of similar properties in the area and stated that a private landlord would probably seek £1000 per month for a house similar to 18 Belmont Street based on four student occupancy. He agreed that market rents of 3-bedroomed flats in the area would be a suitable comparable for the Committee to consider in assessing a market rent for the house. He was not able to comment on the registered rent comparables included in the list provided by the Clerk. He accepted that the repair record of the Landlords was generally good and that he had no issues with the service charges fixed by the Landlords.

Mr. McKenzie, for the Landlords, indicated that repairs to the kitchen units had not been notified and that replacement of the boiler was under consideration. He accepted that unsuccessful attempts had been made to rectify the rainwater ingress at the circular window and stated that further attempts would be made to rectify the problem.

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 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 two three-bedroom properties for rent currently in the G12 postcode from one letting agent. The monthly rents for these comparables ranged from £500 for an unfurnished flat in Dochester Avenue to £1500 for a furnished conversion on Great Western Road.

On the issue of scarcity, the Tenant and the Landlords agreed that there were few 3-bedroomed houses in the G12 area but a plentiful supply of 3-bedroomed flats 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 house, dated 30 January 2009 and received on 2 March 2009.
2. Landlords' letter of appeal dated 1 May 2009.
3. Notification of fair rent appeal from Rent Registration Service for the house dated 6 May 2009.
4. Rent Register Page.
5. Tenant's representations dated 13 May 2009 along with photographs.
6. List of registered rent decisions compiled by the Clerk to the Committee relating to:

RAC/G12/662 Basement, 168 Great George Street, Glasgow G12 8AJ
 RAC/G12/663 1/2, 168 Great George Street, Glasgow G12 8AJ

7. Letting Schedules for two G12 postcode properties for rent referred to by Ms. Stewart at the hearing.
8. Statement of Reasons for rent determinations for flats at Basement, 168 Great George Street, Glasgow dated 8 February 2009 and 1/2, 168 Great George Street, Glasgow dated 8 February 2009.
9. Secure Tenancy Agreement between the Landlords and the Tenants. It was noted that at Clause 4 of the lease provides for payment of compulsory variable service charges. 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 £28.04 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 therent 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 house 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.

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 house. The Committee's investigations with letting agents and internet sources revealed few 3-bedroomed town houses for rent in the area. However, 3/4 bedroomed flats in the vicinity of the house with HMO licences were seeking monthly rents in the range of £750 to £1150. A 3-bedroom flat at Dunearn Street in the vicinity of Belmont Street was advertised for rent at £625 per month. The Committee assumed that this would be an improved furnished flat and from this monthly rental figure the Committee made deductions of £75 to reflect the unfurnished nature of the house at 18 Belmont Street, the absence of white goods and floor coverings, and the Tenants' improvements to the house. The

Committee did not consider that the repairs would have an impact on the rental income. The Committee concluded that the market rent for the house should be £550 per month or £6600 per year.

The Committee cross checked this rent assessment by considering the appropriate return based on the capital value of the property. Checks reveal that the adjoining town house to 18 Belmont Street was sold 18 months ago for £270,000. Assuming that house prices have fallen since this sale and the house at 18 Belmont Street would realise approximately 25% less than this sum and making a further deduction from the likely sale price for the lack of floor coverings of 18 Belmont Street, the Committee concluded that the house at 18 Belmont Street has a capital value of approximately £200,000. An appropriate annual return on that sum given savings rates would be 3.3 % per annum, which would suggest a fair return based on capital value of £6600 per year, which is consistent with the Committee's previous assessment.

The Committee considered the registered rent comparables provided for the flats at Great George Street and noted that the comparable figures for registered rents would need adjustment because of the scarcity deduction made in these registered rent decisions. However, these properties do not have the same accommodation as the house at 18 Belmont Street and the Committee did not consider that it was appropriate to proceed on the basis of these registered rents as the comparables were not appropriate.

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 projected figures for 2009 for services are as follows:-

Cleaning	£172
Gardening	£140
Garden Fee	£150
Electricity	£ 60
Depreciation	£100
Assoc. Admin.	£43.54

These sums are divided amongst tenants of two properties. This gives an annual service charge of £336.53 which equates to a monthly service charge of £28.04. 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 £550 per month, which equates to £6600 per annum (inclusive of services of £336.53 per annum 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 Thirtieth day of May, Two Thousand and Nine.

A Devanny

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Chairperson,
22nd July 2009