



PRIVATE RENTED HOUSING PANEL

Rent (Scotland) Act 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
PRHP/RR/16/0153	18 April 2016	Tenant

ADDRESS OF PREMISES

3/1, 845 Govan Road, Glasgow, G51 3DL

TENANT

Mr John Foster, Mrs Catherine Prendergast

NAME AND ADDRESS OF LANDLORD	AGENT
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Govan Housing Association 35 McKechnie Street, Glasgow, G51 3AQ	
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DESCRIPTION OF PREMISES

Top floor flat in 4 storey traditional tenement containing retail shops at ground floor and 8 flats above. Erected c.1905. Red sandstone construction with tiled roof. Raised saloon or back court to rear. Door entry system. Accommodation comprises living room, 2 bedrooms, small kitchenette and bathroom. Gas central heating with combi boiler. Single glazed windows. 3 pin 13 amp wiring with consumer unit.

Remarks: windows in poor condition.

SERVICES PROVIDED – stair cleaning

COMMITTEE MEMBERS

CHAIRPERSON	George Clark
SURVEYOR MEMBER	Mike Links

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 2,892.00 p.a.	13 June 2016	13 June 2016

G Clark

George Barrie Clark

Chairperson of Private Rented Housing Committee



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

PROPERTY: Flat 3/1, 845 Govan Road, Glasgow G51 3DL

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 tenants, John Foster and Catherine Prendergast ("the tenants") in relation to the property Flat 3/1, 845 Govan Road, Glasgow G51 3DL. The landlords are Govan Housing Association, 35 McKechnie Street, Glasgow G51 3AQ ("the landlords").
2. The registered rent paid by the tenants in respect of property was £2647.48 per year. The landlord applied for rent of £3143.52 per year for the property. The Rent Officer determined a rent of £3143.52 per year. The tenants referred the Rent Officer's determination to the Private Rented Housing Committee.
3. The tenant, Mr Foster, attended the inspection and the subsequent hearing. The landlords were not present or represented at the inspection or the hearing.
4. The Committee comprised George Clark (chairman) and Mike Links (surveyor member).

THE DOCUMENTATION

5. The Committee considered all the documents referred to it by the parties, in particular, the applications and the written representations from the tenants. The landlords did not make any written representations to the Committee.

THE INSPECTION

6. The inspection took place on 13 June 2016. The tenant, Mr Foster, attended the inspection and the subsequent hearing. The landlords were not present or represented at the inspection or the hearing. The Chairman of the Committee introduced the Committee to the tenant and the Committee proceeded to inspect the property.

DESCRIPTION OF THE PROPERTY

7. The property is a top floor flat in a 4-storey traditional tenement building containing retail shops on the ground floor and 8 flats on the upper floors, erected c.1905. The tenement is of red sandstone construction, with a tiled roof. There is a raised saloon or back court to the rear of the tenement. The tenement has a door entry system.

8. The accommodation comprises living room, 2 bedrooms (one presently used as a dining room), kitchenette and bathroom. There are timber single glazed windows to front and rear. The lower half of the kitchenette window is boarded up and the tenant advised the Committee that his had been necessary because the timber had rotted and there was a danger that the window might fall out. The tenant told the Committee that the rear windows had last been overhauled in 1983. The Committee noted that they were showing **signs of decay, the decoration was poor and the glazing putty was missing in places. There is gas central heating with a combi boiler also providing hot water. There is 3 pin 13 amp wiring which has been upgraded at some point to incorporate a consumer unit. The Committee noted that there was no carbon monoxide detector in the property.**
9. The property is let unfurnished and the white goods, carpeting and other floorcoverings had all been provided by the tenants.
10. The property is located in a mixed residential area close to Govan Cross, with local shopping and good transport access with bus and subway links to the city centre nearby.
11. The gross internal floor area of the property is 58 square metres or thereby.

THE HEARING

12. The hearing took place at Wellington House, 134-136 Wellington Street, Glasgow G2 2XL. The Tenant, Mr Foster, told the Committee that the tenants had appealed the decision of the Rent Officer because the rent determination was very high compared with other registered rents in the area. He told the Committee that he also was basing his appeal on the condition of the property, the lack of double glazing in a property which fronted on to a very busy and noisy main road, the condition of the windows themselves and the condition of the common stair. He added that there had recently been incidents of drug-taking in the common stair.
13. Mr Foster told the Committee that this was the only regulated tenancy in the stair, all the other flats being let on an assured tenancy basis. The rent increases for the other flats had been in the region of inflation plus 2%, so had been about 3%, and there was no justification for imposing much higher increases on regulated tenants.
14. Mr Foster offered comparable figures for registered rents in the area. A first floor flat at 827 Govan Road has a registered rent of £3093.36. It was a 3 apartment flat with a kitchen and bathroom. The landlords were Govan Housing Association. Two other flats at 827 and 894 Govan Road had rents of £2892, registered on 3 May 2016 and 28 April 2016 respectively. He argued that an increase in line with those imposed on properties let by the landlords on assured tenancies, namely approximately 3% per annum compounded, was justifiable, but the figure proposed by the landlords and determined by the Rent Officer was far too high.

DECISIONS AND REASONS

15. In terms of section 48(1) of the Rent (Scotland) Act 1984, as amended, 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”.

16. 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)). Improvements by the landlord should be taken into account. In reaching its determination, the Committee complied with its duty as set out above.
17. The Committee considered carefully all the evidence presented, together with the observations made by the tenant, Mr Foster, at the inspection and the hearing. In particular, the Committee considered carefully which of the three alternative methods of ascertaining a fair rent was most appropriate in this case.
18. 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.
19. 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. There was ample evidence available to the Committee of registered rents of comparable properties in the area and the Committee determined that this was a better method to choose than looking at market rents and making appropriate disregards. The Committee was not persuaded that return based on the capital value of the property was the appropriate method to use, where the landlord was a housing association. In these circumstances, the Committee decided that the best method to use in this case was determining a fair rent by having regard to registered rents of comparable houses in the area.
20. The Committee had available to it the registered rent figures for other properties provided by the tenant at the hearing. It also, from its own experience, knowledge and information available from the Rent Register, was aware of three properties in Govan Road (813, 815 and 825) with rents registered on 4 May 2016 of £3702.96, but these were much larger, modern properties which would have modern kitchens and bathrooms and double glazed windows, so did not provide suitable comparisons. In the Committee's view, the closest comparisons were 827 and 894 Govan Road, which were in traditional sandstone tenements of an age similar to the property and both of which had very recently had their rents registered at £2892 per annum.
21. The Committee agreed with the view expressed by the tenant that there was no justification for applying to regulated tenants a significantly higher increase than that which applied to assured tenants. The Committee considered, therefore, the approach suggested by the tenant, namely 3% per annum compounded. Applying this formula to the present rent produced a figure of £2893 per annum which, the Committee noted, was almost identical to the registered rents for 827 and 894 Govan Road.
22. 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.

23. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the Govan area as a whole, there could not be said to be scarcity of similar properties to let at the present time and neither party had presented evidence to the Committee that demand for properties in the area substantially exceeded supply. 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.
24. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £2892.00 per year. In reaching this decision, the Committee had regard to all the evidence presented by the parties, and to all the circumstances that must be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

Signed **G Clark**

George Clark, Solicitor
Chairman
Private Rented Housing Committee

13 June 2016