



**PRIVATE RENTED HOUSING PANEL**

**HOUSING (SCOTLAND) ACT 1988 SECTION 25(1)**

**Register Of Rents Determined Under Statutory Assured Tenancies**

**REFERENCE NO.**

RAC/G11/A44

**APPLICATION RECEIVED**

24 May 2007

**ADDRESS OF PREMISES**

68 Hyndland Street, Glasgow, G11 5PT

**TENANT**

Mr R McPhee

**NAME AND ADDRESS OF LANDLORD**

Mr D McFarlane

**AGENT**

per Ross & Liddell  
60 St Enoch Square  
Glasgow  
G1 4AW

**RENTAL PERIOD**

Quarterly

**DATE TENANCY COMMENCED**

8 December 2006 By Succession

**DESCRIPTION OF PREMISES**

Second floor traditional tenement flat C.1900 comprising living room, two double bedrooms, box room, living kitchen and bathroom.

**SERVICES PROVIDED**

None

**COMMITTEE MEMBERS**

**CHAIRMAN**  
**PROFFFESSIONAL MEMBER**  
**LAYMEMBER**

Mrs I Montgomery BA(Hons) NP  
Mr G Campbell FRICS  
Mr S Campbell

**PRESENT RENT**

**£2,800.00**

**RENT DETERMINED**

**£6,000.00**

**DATE CONSIDERED**

5 September 2007

**DATE DETERMINATION TAKES EFFECT**

5 September 2007

**I Montgomery**

Chairman of Private Rented Housing Committee

5th September 2007

Date

## Private Rented Housing Committee

## Statement of Reasons

Inspection and Hearing: 13<sup>th</sup> August and 5<sup>th</sup> September 2007

Property: - Second floor flat, 2/2, 68 Hyndland Street,  
Glasgow, G11 5PT.

Introduction

1. The Committee comprised Mrs I.R. Montgomery (Chairman), Mr G. Campbell (Surveyor) and Mr S. Campbell (lay member). The landlords are Mr Douglas McParlane and others, who are represented by agents Ross & Liddell, 60 St Enoch Square, Glasgow G1 4AW. The tenant is Mr Robert McPhee. The tenant is represented by Messrs McManus, Campbell and Pottle.
2. The tenancy is a statutory assured tenancy as defined in section 32 of the Housing (Scotland) Act 1988. The current tenant is the second successor, having taken over the tenancy following the death of his mother, Mrs Mary McPhee. Mrs McPhee died on 8<sup>th</sup> December 2006. She succeeded to the tenancy following the death of her husband, the current tenant's father, Mr Peter McPhee. He died on 15<sup>th</sup> May 2002. Mr Peter McPhee had taken entry to the property on 28<sup>th</sup> May 1953 and had been a regulated tenant of the property. No copy of the Tenancy Lease Agreement was available, but the rent book was produced and showed that the rent had been payable quarterly in advance. The parties confirmed at the hearing that the lease is a quarterly tenancy.
3. In terms of section 24(2) of the Housing (Scotland) Act 1988, the landlord requires to serve the tenant with a correctly completed form AT2, giving at least three months notice of an increase in rent. The landlords' agents, Ross and Liddell, had correctly served the tenant with a notice of rent increase on form AT2. The form was dated 15<sup>th</sup> February 2007 and the new rent of £6,000 was to take effect from 25<sup>th</sup> May 2007. The Committee was satisfied that it had jurisdiction to deal with the application.

4. The previous rent was £2,800.00 per annum. This rent was determined by a Rent Assessment Committee in 2003. The rent now sought by the landlords is £6,000 per annum.

Description of the property

5. On the morning of the 13<sup>th</sup> August 2007, the Committee inspected the second floor flat at 2/2, 68 Hyndland Street, Glasgow G11 5PT. The property is situated in the West End of Glasgow, in a desirable residential/commercial location. The property has shops beneath it to the left and right but not directly below. The property is conveniently located for both shopping and accessing public transport.
6. The property is situated within a three storey traditional buff sand stone tenement built around 1891. The roof has been tiled. The tenement has been refurbished and externally appeared to be in a reasonable state of repair. At the front of the property some gutters and down pipes were blocked and required repair. There was a door entry system in operation at the date of the inspection. There is a drying green area to the rear of the building made up of a grassed area, with clothes posts and lines. There is shared access to this drying green. The back court was tidy on the day of inspection.
7. The property has been rewired at some point during recent years and the wiring appears to be of reasonably modern standard. There is no central heating system. All windows are traditional single glazed sash and case windows. The dwelling house was largely wind and watertight on the date of the inspection, with the exception of water penetration at the windows of the living room.
8. The accommodation extends to a living room, two double bedrooms, a single bedroom, a living kitchen and a bathroom. The tenant complained of water ingress at the window area. He also complained that he could not use his gas fire because the flue was blocked. He acknowledged that he

had not reported these matters to the landlords. The lounge is of good size with traditional cornicing, although part of the cornice is missing. There are three large single windows. The main bedroom is a large room with a triple window. The cornicing and ceiling rose remain in place. The original fireplace has been blocked up and there is evidence of former damp patches, although the damp itself appears to have been eradicated. The second bedroom is also a large room and has traditional cornicing. The third bedroom is much smaller but is a reasonable sized single bedroom or boxroom. It has one single window. The kitchen is a large bright living kitchen with a bed recess. It is not a modern kitchen and the tenant has supplied his own appliances. The hot water cylinder is apparently leaking at the immersion heater and so the tenant has simply switched it off. The floorboards are uneven and noisy when stepped on. The tenant confirmed that he has not reported these issues to the landlord either. In the bathroom the bath, WC and wash hand basin are in reasonable condition and functional, although of some age. The tenant has installed a shower above the bath. The hallway is spacious and has distinctive traditional cornicing and ceiling rose. The standard of décor throughout the property is poor and the property would benefit from modernisation and redecoration.

9. The landlords were not represented at the inspection.

#### Documentation

10. The Committee considered:

- Form AT4;
- Form AT2;
- Copy rent book;
- Written representations from the tenant;
- Written representations from the landlord;
- Letters from McManus, Campbell & Pottle dated 19<sup>th</sup> April, 11<sup>th</sup>, 15<sup>th</sup> and 30<sup>th</sup> May 2007;
- Letters from Ross and Liddell dated 18<sup>th</sup> May and 8<sup>th</sup> June 2007.

### Hearing

11. Both parties requested a hearing. When the Committee arrived to inspect the property on 13<sup>th</sup> August 2007, we were advised by the tenant that his solicitor was on holiday until 28<sup>th</sup> August 2007. In these circumstances, the Committee adjourned the hearing until Wednesday 5<sup>th</sup> September to allow the tenant's solicitor to attend the hearing.
  
12. At the hearing, the tenant appeared and was represented by his solicitor, Mr Herd. The landlords were represented by Mr Brolly.
  
13. Mr Herd argued that the rent figure proposed by the landlords of £6,000 per annum was excessive. He submitted that the property is an old fashioned tenement flat which has been occupied by the tenant's family since 1953. He pointed out that the property does not have the benefit of a modern kitchen and the tenant has supplied his own furniture and appliances. He argued that a fair rent had been determined in respect of the property in 2003 at a figure of £2,800. He argued that there had been no radical improvement made to the property since that time. He submitted that applying a modest rate of inflation at a level of 5% to the figure of £2,800 produced a figure of £3,600 per annum. He submitted that no-one would be willing to pay a rental of £500 per month for the flat in its current condition. He advised the Committee that he had knowledge of a modern 2 bedroom Bellway property, with central heating and double-glazing, situated in the South side of Glasgow which was being rented for the figure of £450 per month. He declined to address the Committee on any capital value calculation, and invited the Committee to fix a lower figure than the £6,000 applied for.
  
14. Mr Brolly argued that as the tenancy is no longer a protected regulated tenancy, the figure fixed in 2003 is no longer a useful starting point. He submitted that the figure being sought by the landlords of £6,000 was a very modest figure for a three bedroom property in the West End, which he described as a "hot-spot" for property. He acknowledged that the flat

remains in a generally unimproved condition but argued that it is a particularly valuable property and the landlords are entitled to a proper return on their investment. He submitted that with vacant possession the property would achieve a price of around £200,000 in the current market conditions. He argued that this figure took account of the condition of the property. He referred the Committee to the property at 142 Fergus Drive, details of which had been provided in the landlords' written representations. This property has white meter central heating and is carpeted and redecorated. He urged the Committee to determine the rent at a figure of £6,000 per annum. He reminded the Committee that whether or not the tenant could afford to pay that sum was a personal circumstance and was not therefore a relevant matter to be taken into account.

#### The Decision

15. The Committee considered carefully the available evidence in this case. Having inspected the property, we found it to be badly in need of internal redecoration but generally sound and wind and watertight. The windows in the living room could be easily repaired to solve the current problem of fairly minor water ingress. While there is evidence of previous damp in the property, this appears to have been resolved some time ago. The property requires redecoration and would benefit from some internal modernisation, but these are cosmetic rather than structural issues. There is a functional kitchen, albeit without the benefit of modern fitted units. The bathroom has appropriate fixtures and fittings albeit these are of some age. The property to be valued is an unfurnished property which is structurally sound, with traditional single glazed windows, and no central heating. It is a large spacious three bedroom flat in a desirable West End location with a large living kitchen.
16. The Committee had evidence of a number of three bedroom flats being offered in the West End area, at rents considerably in excess of the £500 now being sought for this property. However, the Committee considered that these properties were likely to have been significantly upgraded and modernised and concluded therefore that they did not provide suitable

comparables to this flat. We considered that an appropriate level of rent for the property now under consideration would be lower.

17. The Committee noted that the fair rent figure in 2003 was determined at £2,800. However, the tenancy is no longer a protected regulated tenancy and an open market rental must be fixed. Furthermore, fair rents fixed in 2003 were likely to have taken into account the issue of scarcity which was still generally considered to apply at that time. Taking this factor into account would probably inflate the fair rent figure by about 33%, as that was a figure at which scarcity was commonly assessed in the Glasgow area at around that time. Re-adjusting the 2003 to remove the scarcity reduction and then adjusting for the increase in property values over the past four years would bring out a figure consistent with the figure now sought by the landlord.

18. The Committee had details of a two bedroom flat situated in Fortrose Street in Hyndland which was being offered for rent at £500 per month. This property was not furnished but did have the benefit of double glazing and came complete with all carpets, curtains and white goods. The property under consideration does not have these advantages, but we considered it to be considerably larger and in a more desirable location. It is a large flat with a spacious hall, large living kitchen, lounge and three bedrooms. It has many traditional features and, with some redecoration, would be a very desirable property. Looking at all the evidence, the Committee considered that the property under consideration could reasonably be expected to achieve the sum of £500 per month even in its present condition.

19. Looking at all the evidence, the Committee considered that, even taking account of the fact that the property requires some repairs to the windows, gas flue and boiler, is in need of redecoration, and has kitchen and bathroom fixtures and fittings of some age, the market rent for the property could not reasonably be valued at less than £6,000 per annum. On the basis of the available evidence, the Committee was satisfied that the rent

sought by the landlords was a reasonable market rent for the property given its present condition. We found accordingly.

20. No services are provided by the landlords.

21. Having taken all relevant factors into account, the Committee determined the market rent for the property at £6,000.00 per annum.

22. The Committee decided that the increase in rent should take effect from the date of the hearing, i.e. 5<sup>th</sup> September 2007 as the Committee was satisfied that to find otherwise would cause undue hardship to the tenant as it would immediately place him in the situation of having accrued substantial arrears while facing a significant increase in his ongoing rent.

Signed.. **I Montgomery** ..... (Chairman)

Date..... 11<sup>th</sup> September 2007.....