

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
RAC/G42/388	17 October 2005	Tenant

ADDRESS OF PREMISES

0/2, 28 Overdale Gardens, Glasgow, G42 9QQ

TENANT

Mrs C Jack

NAME AND ADDRESS OF LANDLORD

Mrs J Cameron

AGENT

Hacking & Paterson
1 Newton Terrace
Glasgow
G3 7PL

DESCRIPTION OF PREMISES

Ground floor tenement flat circa 1900 with gas central heating, comprising 2 rooms, living kitchen and bathroom.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN

Mrs J Taylor LLB Dip LP NP

PROFESSIONAL MEMBER

Mr G Campbell FRICS

LAY MEMBER

Mrs T Ahmed

FAIR RENT

£2375.00 per annum

DATE OF DECISION

15 December 2005

**EFFECTIVE
DATE**

15 December 2005

J Taylor

Chairman of the Rent Assessment Committee

.....15th December 2005.....
Date

STATEMENT OF REASONS

in connection with

the property

Flat 0/2, 28 Overdale Gardens, Glasgow G42 9QQ

THE PARTIES

The landlord is Mrs Joan Cameron of Balcarry, Campsie Road, Torrance, Glasgow G64 4BN and her agents are Hacking and Paterson, 1 Newton Terrace, Glasgow, G3 7PL. The tenant is Mrs C Jack.

BACK GROUND

The tenant's lease of the property commenced on 28th May 1973. The Rent Officer registered a rent of £2675 per annum, with effect from 10th October 2005. The previous rent was £2375 and the tenant referred this determination to the Rent Assessment Committee.

THE INSPECTION

The committee inspected the property on 15th December 2005. The property is a ground floor flat in a four storey traditional sandstone tenement, which was constructed circa 1900. The roof of the tenement is tiled and there is a communal door entry system. The tenement had been stone cleaned, probably over twenty years ago.

The accommodation comprises one bedroom, living room, living- kitchen and narrow bathroom. There were deep recessed cupboards off both the kitchen and living room.

The windows of the property are single glazed and sections of the external wooden frames are rotten and in need of repair. The tenant had arranged for the central heating to be installed under the Scottish Executive scheme.

The improvements made to the property were carried out by the tenant's late husband. During the inspection the tenant advised the committee that when the occupiers of the flats above have a shower, foam waste from the shower comes into the bath and wash hand basin of her flat and sometimes this foam waste overflows.

At the rear of the tenement there is a communal grass area. The communal bin store is located here.

The property is located in a cul de sac which is close to The Victoria Infirmary. It is conveniently placed for local shops and public transport.

No services are provided by the landlord.

THE HEARING

The hearing was held in the property, immediately after the inspection. The tenant and Martin Henderson of Messrs Hacking and Paterson, acting for the landlord, were present.

The tenant advised the committee that she considered that the rent increase of £25 per month was too high as all the improvements to the property had been carried out by her late husband.

In particular, she was concerned about the ongoing problem with the waste from the upper flats entering the bath and wash hand basin in the bathroom. She explained that the problem is constantly on her mind. If she goes on holiday she has to arrange for someone to check the bathroom in her absence to ensure that no flooding has occurred. She explained that she had reported the problem in 2001 but the plumber, who had investigated the problem for the landlord, had advised that it could not be fixed as the pipes were too narrow. Her son had advised the landlord of the ongoing problem, when she had received notification of the rent increase.

Martin Henderson advised the committee that he would arrange for the problem to be repaired. He also confirmed that the rotten sections of the wooden window frames would be repaired.

In relation to the value of the property, both parties advised the committee that they could not give an indication of a likely capital value of the property.

Also they were unable to comment on the evidence of comparable rented properties provided by the clerk. However, Martin Henderson advised that Hacking and Paterson managed a similar first floor property at 14, Boulevard Terrace. The property was single glazed and the rooms were slightly larger. He was uncertain as to whether or not the property had double glazing. It was a regulated tenancy and the annual rent for that property was £2750.

The committee advised the parties that they had found evidence of properties let at market rents at the following addresses and they invited the parties to comment. The landlord and tenant were agreed in their comments, which were as follows:-

Address	Tenant and Landlord's agent's comments
Sinclair Drive	Similar location, with a busy bus route
Arrandal Drive	Better area
Dundrennan Road	Better area
Bolton Drive	Better area, but there is a lot of disturbance from football traffic
Gary Street	Better area

THE DECISION

The committee had the following documents before them:-

- A copy of the Rent Officer's determination.
- A copy of the landlord's application for registration of the rent.
- A copy of the tenant's letter of appeal dated 6th October 2005 which stated, as follows:-

'There are one or two problems that I would like resolved before this increase becomes effective. The letter advising of the hearing was sent from your offices on 15th September 2005, with details of a hearing in this matter on the 21st of the same month. I understand, by law, seven days notice is required of a hearing and it would appear that this certainly has not been adhered to. I am a 77 year old pensioner, recovering from major heart surgery and to have notice of a hearing at such short notice made it impossible for me to attend said hearing. I was further advised that no-one is required to come and inspect the property as this was done in the year 2002. I find this situation intolerable as I have had to contend with waste water coming into my bath and also my basin in the bathroom. As you will understand this causes me a great deal of unrest and despite several attempts to have this matter resolved, the situation remains the same. Having just had major surgery it is imperative that I must keep my personal hygiene to a very high standard and quite frankly I find this situation very distressing. I would also point out that this matter has remained the same for more than three years. The windows in the flat are in a state of disrepair. The outside sills are quite frankly rotten, the wood is flaking away and I could not possibly repair or afford to have them repaired by myself. I feel that these matters should be brought to your attention and therefore I am appealing the rent increase granted in my absence at your hearing. I trust that you will contact me with regard to this matter, giving plenty notice of appeal hearing, as arrangements will require to be made for my attendance or someone to represent me at the same.

- The list of comparable rents prepared by the clerk, namely:-

Address	Accommodation	Effective date	Registered rent	remarks
2/2, 10, Baker Street, Glasgow	2 rooms, kitchenette and bathroom	22 April 2004	£2614.76 (€190.26, services)	Modernised with central heating
2/3, 327, Victoria Road, Glasgow	2 rooms, living- kitchen and bathroom	3 October 2005	£2645	

The committee considered these documents and the parties' submissions. They also considered the following:-

- **Capital Valuation**

The committee considered the likely capital valuation of the property. They found that due to the time of year there was little market evidence available of recent capital sales. However they had found evidence of a property on the market for sale at Sinclair Drive. The asking price was approximately £100,000, the property was improved and had an additional bedroom in comparison to 0/2, 28, Overdale Gardens. The committee

acknowledged that this was simply evidence of an asking price and not a confirmed sale. However they considered that an approximate capital valuation was likely to be in the region of £85,000. However they gained little assistance from this due to the lack of sufficient evidence of recent sale prices of similar properties.

- **Market Rents**

They considered the market rents of comparable properties available from a rented property website. The properties, and the committees comments are as follows:-

Address	Accommodation	Rent	Committee's comments
Sinclair Drive	2 bedrooms, improved and furnished	£525 per month, £6300 per annum	<ul style="list-style-type: none"> • Larger, improved property
Arrandal Drive	2 bedrooms, improved with double glazing and central heating	£495 per month, £5940 per annum	<ul style="list-style-type: none"> • Larger, improved property
Dundrennan Road	3 rooms, kitchen and bathroom, improved property	£525 per month, £6300 per annum	<ul style="list-style-type: none"> • Larger, improved property
Bolton Drive	2 rooms, dining kitchen, bathroom, double glazing and central heating, improved property	£425 per month, £5100 per annum	<ul style="list-style-type: none"> • Similar sized property, but improved, with double glazing • Better area
Gary Street	1 bedroom, lounge, kitchen and ensuite, double glazing, improved property	£395 per month, £4740 per annum.	<ul style="list-style-type: none"> • Similar sized property, but improved, with double glazing • Better area

The committee gained little assistance from this evidence as the properties which were of a similar size to 0/2, 28, Overdale Gardens (Bolton Street and Gary Street) were improved and located in better areas.

- **Comparable Registered Rents.**

In addition the committee considered the evidence of the registered comparable rents provided by the clerk and also Martin Henderson. Their comments are as follows:-

Address	Accommodation	Registered rent	Committees comments
2/2, 10, Baker Street, Glasgow	2 rooms, kitchenette and bathroom	£2614.76 (£190.26, services)	<ul style="list-style-type: none"> • Better location • Closer proximity to shops • More convenient for public transport • Modernised property • Services are provided
2/3, 327, Victoria Road, Glasgow	2 rooms, living- kitchen and bathroom	£2645	<ul style="list-style-type: none"> • Better, but busier location • Probably larger sized rooms and high ceilings • No central heating • Unimproved property
1/1, 14, Boulevard Terrace	2 rooms, living kitchen and bathroom	£2750	<ul style="list-style-type: none"> • Larger rooms • Better location • Unimproved property

The committee gained most assistance from the rents of the properties 2/3,327, Victoria Road, Glasgow and 1/1, 14, Boulevard Terrace, Glasgow.

The committee were mindful of the terms of section 48 of The Rent (Scotland) Act 1984, which states, inter alia :- "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".

The committee considered the evidence of the rents of the properties 2/3,327, Victoria Road, Glasgow and 1/1, 14, Boulevard Terrace, Glasgow and after making allowances for the differences stated they considered that a fair rent for the property, on the basis that it did not have the longstanding plumbing problems referred to, would be £2600. However the committee acknowledged that the plumbing problems have remained unresolved for five years without being repaired and they are causing distress to the tenant and have a detrimental effect to her amenity of the property. The landlord's agent did not dispute that the problem required to be rectified and undertook to do so. However at the date of the inspection the problem was ongoing and the committee considered that this should be reflected in a deduction from the rent.

Therefore, the committee, after considering the whole facts decided that the fair rent for the property was £2375 per annum.

In reaching this decision the committee have had regard to all the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.

This decision takes effect from the 15th December 2005.

J Taylor

Chairperson

13th January 2006