

## RENT ASSESSMENT PANEL FOR SCOTLAND

### RENT (SCOTLAND) ACT 1984

### NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

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**REFERENCE NO.**

RAC/G3/433

**OBJECTION RECEIVED**

22 May 2006

**OBJECTION**

Landlord

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**ADDRESS OF PREMISES**

Flat 0/2, 53 Dalnair Street, Glasgow, G3 8SQ

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**TENANT**

Mrs A Steele

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**NAME AND ADDRESS OF LANDLORD**

Mr Angus & Mrs Iris Maclean

**AGENT**

Hacking & Paterson  
1 Newton Terrace  
Glasgow  
G3 7PL

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**DESCRIPTION OF PREMISES**

Ground floor tenement flat circa 1900 with gas central heating comprising sitting room, bedroom, living kitchen and bathroom.

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**SERVICES PROVIDED**

None

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**COMMITTEE MEMBERS****CHAIRMAN**

Mr D O'Carroll LLB (Hons) Dip LP

**PROFESSIONAL MEMBER**

Mr D Marshall FRICS

**LAY MEMBER**

Mr T Keenan

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**FAIR RENT**

£ 3000.00 p.a.

**DATE OF DECISION**

10 July 2006

**EFFECTIVE  
DATE**

10 July 2006

**D O'Carroll**

**Chairman of the Rent Assessment Committee**

10 / 7 / 06

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**Date**

### **Rent Assessment Committee**

#### **Statement of reasons in respect of an reference to the RAC following a determination of a fair rent by the rent officer**

*Flat 0/2, 53 Dalnair Street, Glasgow G3 8SQ*

#### **Introduction**

1. This is a reference to the RAC ("the Committee") in respect of Flat 0/2, 53 Dalnair Street, Glasgow G3 8SQ ("the subjects"). The landlords are Angus and Irene Maclean who are represented by their agents, Hacking and Patterson ("the landlord") and the tenant is Mrs A Steele ("the tenant"). The tenancy is a statutory tenancy under the Rent (Scotland) Act 1984. On 3 May 2006, on the application of the landlord, the rent officer registered a fair rent of £2,400 per annum effective from that date. The landlord timeously objected to the registered rent on the grounds that it was too low. Accordingly, the matter was referred to this Committee for determination. Both parties were invited to make written representations, to attend the inspection and to attend a hearing. Both parties made written representations and attended the hearing which was held in the subjects. The inspection and hearing took place on 10 July 2006.

#### **Findings in fact**

2. The Committee makes the following findings in fact following its inspection of the subjects, their surroundings, and consideration of all written and oral evidence.
3. The subjects are a flat located on the ground floor of a traditional tenement with common drying area to the rear. The accommodation comprises sittingroom, livingroom/kitchen, bedroom and bathroom. The area is principally residential in character. The subjects are beside Yorkhill Hospital. Shopping, public transport, other local facilities and amenities are close by and convenient to the property.

#### **The law**

4. The Committee is bound to fix a fair rent for the subjects by applying the terms of the Rent (Scotland) Act 1984, and in particular section 48. It is required to have regards to all the circumstances. There is no single or preferred method for the fixing of a fair rent. While various methods are used to reach a final figure, it is for the Committee to determine, based on the evidence before it, the best method to fix the fair rent. The fair rent fixed should be fair to the landlord and fair to the tenant. In terms of section 48(2) of the Act, the Committee is bound to disregard various factors, including any element attributable to 'scarcity'; that is, excess of demand over supply of the accommodation in question. Where the rent

includes an element in respect of charges for services, in terms of section 49(6) of the 1984 Act, the amount to be registered may only be registered as variable if the terms as to variation are reasonable. If the Committee is not so satisfied, the Committee registers a fixed service charge. In this case, there are no services provided.

### **Submissions of the parties**

5. It was submitted that whether one used the capital value method or the market comparables method, a fair rent of at least £3,000 per annum was the fair rent. If one takes the capital value method, the capital value of the subjects was around £80,000. The basis for this was the value of a similar property in the area which was presently on the market at an upset price of £99,000 and which was estimated by the landlord to be valued at £110,000 based on its experience of the market. The subjects are however worth less; although why was not explained. A rate of return of 6% is assumed; although again the basis for the 6% return is not explained. That produces an annual value of £4,800 it is said. From this should be deducted the annual cost of insurance and maintenance of about £500 to £700. The cost of insurance was estimated at £350 with the balance going to maintenance. If one then made further, unexplained and unspecified deductions, the capital value method would produce an annual value in the region of £3,000.
6. If one took the market rent comparable method, the starting point would be in the region of £450 to £500 per month. This was based on two comparables being a one bedroomed flat at 26 Minerva St, Anderston (asking price of £495 per month furnished) and Nairn Street, Yorkhill (asking price of £450 per month furnished). It was not known if either of these values was achieved. The landlord accepted that these comparables were for improved properties and that the subjects are unimproved. The landlords submitted that making appropriate deductions to take account of the furniture and the unimproved nature of the subjects would take one to a figure of around £250 per calendar month. That was the sum sought.
7. The tenant was unrepresented. Her principal contention was that the windows were in an awful condition and let in the wind and rain. Although she accepted that the introduction of the central heating (which had been provided free of charge by the Scottish Executive under a warm homes scheme) had made the house easier to heat, nonetheless, a significant amount of the heat which she had to pay for escaped through the draughty windows. In addition, the poor state of repair of the windows meant that the flat was uncomfortable to live in during the winter. The tenant was largely unable to use the living room during the

winter months. Accordingly, the tenant did not see why the landlord should get more rent when according to her, the landlord was failing in its obligations to keep the windows in a wind and watertight condition.

#### **The decision**

8. The RAC does not accept the determination of the fair rent by the rent officer. The RAC determines that a fair rent for the subjects, determined in accordance with Part V of the Rent (Scotland) Act 1984, is £3,000 per annum, (£250 per month), with effect from 10 July 2006.

#### **Reasons for the decision**

9. The Committee, utilising its own knowledge and experience of the value of rents for similar properties in the area, were satisfied that the starting point for a fair rent proposed by the landlord was too high. It was satisfied also that those comparables were not truly comparable in that they were not only for improved properties, the properties occupied different positions in the tenements, were in a different locale and were furnished. While the Committee was unable to determine an accurate figure for a flat such as the subjects which were in exactly the same condition (because the flat was so unimproved and because such flats are not as common as improved furnished flats) the Committee was able to determine that were the subjects in an improved state, the passing rent would be in the order of £400 per month.
10. In order to bring in the flat to an improved state, a considerable amount of expenditure would be required principally in replacement and refurbishment of the kitchen and living area and the replacement and refurbishment of the bathroom. Taking a broadaxe approach, the Committee was satisfied that the total costs of such work might be around £10,000. If that figure were taken over a 10-year period together with interest on that figure, that would produce an additional monthly outlay for the landlord of £125. The Committee therefore deducted that notional figure from the starting point of £400 to produce £275 a month. In addition, the Committee accepted the tenant's evidence that the windows were not properly wind and watertight. This would have the effect of reducing the value of the flat. The Committee allowed a further £25 a month reduction due to the state of the windows. That produces a monthly rent of £250, equivalent to £3000 per annum.
11. The Committee was satisfied that there was no scarcity value in the area. This assessment was based on its own knowledge and experience of the rental market in the area. This assessment reflects also the assessment of another Committee which produced a decision on 30 November 2005 in

respect of 128 Raeberry Street, Maryhill, Glasgow. That Committee, after considering a considerable volume of evidence on the issue of scarcity concluded that in the area, there was no scarcity. Maryhill is, for the purposes of the 1984 Act, within the same area as the subjects. The tribunal was content to accept that Committee's assessment as corroboration of its own assessment, which of course was not based on the same quality or quantity of evidence.

12. Accordingly, as there are no other relevant deductions to be made, the market rent as calculated by the Committee is the same as the fair rent. In this regard, the Committee took no account, one way or the other, of the existence of the central heating funded by the Scottish Executive. The landlord agrees with that.
13. Since the Committee was satisfied that it would cause hardship to the tenant if the fair rent determined by it was backdated to the date of the rent officer's decision, the fair rent fixed takes effect from the date of this Committee's decision.

**D O'Carroll**

**Derek O'Carroll, Advocate, LLB (Hons); DipLP.**  
**Chairman of the Rent Assessment Committee**  
*10 July 2006.*