

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

| REFERENCE NO. | OBJECTION RECEIVED | OBJECTION |
|---------------|--------------------|-----------|
| RAC/G32/467 | 21 February 2007 | Landlord |

ADDRESS OF PREMISES

1/1, 548 Tollcross Road, Glasgow, G32 8TG

TENANT

Mr A Sutherland

NAME AND ADDRESS OF LANDLORD

Alex Danskens Representatives & Other

AGENT

Hacking & Paterson
1 Newton Terrace
Glasgow
G3 7PL

DESCRIPTION OF PREMISES

First floor traditional unimproved tenement flat circa 1900 comprising two rooms, living kitchen and bathroom

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN

Mrs A Devanny LLB NP

PROFESSIONAL MEMBER

Mr G Campbell FRICS

LAY MEMBER

Mrs S Brown

FAIR RENT

£ 2760.00 per annum

DATE OF DECISION

10 April 2007

EFFECTIVE DATE

10 April 2007

A Devanny

Chairman of the Rent Assessment Committee

10th April 2007
Date

RENT ASSESSMENT COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Tuesday 10 April 2007

Of the property

**Flat 1/1, 548 Tollcross Road, Glasgow G32 8TG
(hereinafter referred to as “the flat”)**

INTRODUCTION

An reference has been made to the Rent Assessment Committee for the determination of a fair rent of the flat under the Rent (Scotland) Act 1984 (“the 1984 Act”).

The Landlords of the flat are Alex Danskens Representatives and Other whose agents are Messrs. Hacking & Paterson, 1 Newton Terrace, Glasgow G3 7PL. The Tenant of the flat is Mr. Alexander Sutherland. Mr. Sutherland’s family has been tenants of the flat since 1931 and he succeeded to the tenancy on the death of his father in 1982.

The annual rent for the flat was last registered on 19 November 2003 at the figure of £1900 per annum. On 11 December 2006 the Landlords applied to have the rent increased to £3000 per annum. The Rent Officer determined the rent for the flat at the figure of £2200 per annum with effect from 6 February 2007.

The reference to the Rent Assessment Committee has been submitted by the Landlords.

INSPECTION

The Committee inspected the flat on the morning of 10 April 2007. The Tenant was present throughout the inspection. No Representative of the Landlords attended.

The flat is located on the first floor of a four storey traditional red sandstone tenement which was constructed circa 1900. The tenement has a tiled roof. There are two houses on each of the four storeys. There is no front entrance door on the painted close and hence the close entrance is unsecured. The close, stairs and landings were litter free at the time of inspection and in fairly reasonable decorative order and repair. There is a raised grassed area to the front of the tenement block. The communal area to the rear is partly grassed and partly slabbed with a brick and tile-

roofed outhouse in poor condition and minimal provision for bins. The communal area to the rear is accessed via a door to the rear of the common close, which has an internal slip-bolt but no lock.

The flat lies on the left-hand side of the first floor landing. The accommodation of the flat comprises a bay windowed living room with bed recess, bedroom, living kitchen with bed recess, and bathroom. The kitchen is basic in nature with simply a stainless steel sink unit and no other fitments. The bathroom also is basic and has the original fittings. The rooms are good sized. The flat is unimproved and in original condition with the original fittings, and the original sash single glazed windows. There was evidence that the cords in some windows were broken. The electrical wiring needs checked and upgraded. The sole source of heating for the flat is from two gas fires located in the kitchen and living room, which are provided by the Tenant. Water is heated by an immersion heater. There is a lack of storage. No services or furniture are provided by the Landlords. The Tenant was unsure as to who undertook the stair cleaning and garden maintenance but was clear that it was not the Landlords.

Parking for the flat is on street and at the time of inspection there was spaces adjacent to the property. The locality is mainly residential with good shopping and leisure facilities, and good bus and road links. The flat has pleasant outlooks over Tollcross Park.

HEARING AND DECISION

As no hearing had been requested, the Committee considered most carefully the written documentation before it, viz.: -

1. RRI Application for the flat dated 5 December 2006.
2. Landlords' letter of appeal dated 12 February 2007.
3. Notification of fair rent appeal from Rent Registration Service dated 19 February 2007.
4. Rent Register page.
5. Landlords' representations dated 28 February 2007.
6. Tenant's representations dated 3 March 2007.
7. Clerk's list of comparable properties.

The Landlords' appeal is based on the recent decision of the Rent Assessment Committee that in the climate of the current property market there is at this time equilibrium of supply and demand for properties of this type in this locality and in view of this, scarcity no longer needs to be taken into account. On that basis they suggest that a rent of £3000 per annum should be registered in respect of the flat which is more in keeping with the market rent.

The Tenant made representations that no house improvements had been made by the landlords or their agents. He indicated that the increase in rent from a figure of £1900 to £3000 per annum was excessive and unfair. He indicated his agreement with the Rent Officer's determination of £2200 per annum.

No submissions with regard to the level of current market rents or return on capital

value have been put forward by either the Landlords or the Tenant.

The Committee considered the documents referred to above. The Committee was mindful of the terms of Section 48 of the Rent (Scotland) Act 1984, which states

“ The Committee shall have regard to all of the circumstances (other than person 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.

The Committee acknowledged that no capital valuations had been produced and there was significantly more evidence of market rents of comparable properties than evidence of comparable registered rents. The Committee looked at the rent of Flat 3/2, 630 Tollcross Road, Glasgow, which was the only property on the Clerk's list of comparable registered rent properties. The rent registered for this property was determined by the Rent Officer at £2100 per annum with an effective date of 20 July 2006. However, it was noted that this rent was not appealed to the Committee, and it was unclear whether a scarcity deduction had been taken into account. Therefore, the Committee was not convinced on the current validity and applicability of this comparable.

The Committee then went on to consider the market rents of similar flats located in the vicinity of the flat. There was evidence of a plentiful supply of rented accommodation available in the area. The Committee accepted that the best evidence available was the evidence of market rents of similar flats within the area. The Committee accepted the landlords' submission that there is equilibrium of supply and demand for properties of this type in this location and no scarcity deduction should be made. There was no disrepair or defects attributable to the tenant, and, with the exception of the two gas fires provided by the tenant, no tenant's improvements were indicated which should be disregarded. There was evidence from internet sources of a very well presented one bedroom furnished tenement flat at 586 Tollcross Road being offered for let for £395 per month and another improved one bedroom flat on Tollcross Road being offered for let for £325 per month. Significantly, at the inspection it was noted that within a short distance of the flat at 548 Tollcross Road, there was an unfurnished flat at Flat 2/1, 572 Tollcross Road for rent. This flat has no central heating and has single glazed windows and appeared externally to be similar but in a more modern condition to the flat under consideration by the Committee. The rent being sought for this property is £300 per month. The Committee considered that a deduction of £70 per month should be made from this figure to reflect that the flat at 1/1, 548 Tollcross Road is a completely unimproved property with the original fittings, original windows, old wiring and no heating. The discount to open market

rental reflects the condition of the flat at 548 Tollcross Road and that demand for such a flat would certainly be low unless offered at a reduced rental level. The Committee, after considering all the available evidence decided that the fair rent for the property was £230 per month, which equates to £2760 per annum. The Committee had no evidence of capital values of similar flats within the locality and, therefore, was unable to use this method to cross check the rental figure.

The decision takes effect from the Tenth day of April Two thousand and seven.

A Devanny

Chairperson,
27th April 2007