



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

**Notification Of Decision By The Private Rented Housing Committee**

---

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G40/597	13 August 2007	Tenant

---

**ADDRESS OF PREMISES**

108 Dale Street, Bridgeton, Glasgow, G40 4DG

---

**TENANT**

Mrs D Glackin

---

NAME AND ADDRESS OF LANDLORD	AGENT
------------------------------	-------

Thenew H.A.  
2 Main Street  
Bridgeton  
Glasgow  
G40 1HA

N/A

---

**DESCRIPTION OF PREMISES**

Mid terrace two storey house with double glazing and electric white meter heating, comprising on lower level, living room, kitchen and wc. Upper level comprises three bedrooms and bathroom.

---

**SERVICES PROVIDED**

None

---

**COMMITTEE MEMBERS**

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

Mrs I Montgomery BA(Hons) NP  
Mr M Links FRICS  
Mr T Keenan

---

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4500.00 p.a.	31 October 2007	20 June 2007

---

**I Montgomery**

Chairman of Private Rented Housing Committee

31st October 2007

---

Date

# **PRIVATE RENTED HOUSING COMMITTEE**

## **STATEMENT OF REASONS**

INSPECTION AND HEARING: -31<sup>ST</sup> OCTOBER 2007

PROPERTY: -108 DALE STREET, BRIDGETON, GLASGOW G40 4DG

### **INTRODUCTION**

1. The Committee comprised Mrs. I.R. Montgomery (Chairman), Mr. M. Links (Surveyor) and Mr. T. Keenan (Lay member). The landlords are Thenew Housing Association, 2 Main Street, Bridgeton, Glasgow G40 1HA. The tenant is Mrs. D. Glackin. This reference to the Private Rented Housing Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 in respect of the mid terrace two storey house at 108 Dale Street, Bridgeton arises from dissatisfaction on the part of the tenant.
2. The previous rent was £2,855.00 per annum. The landlord applied for a rent of £3,359.04 per annum. The rent determined by the Rent Officer was £3,219.84 per annum.

### **DESCRIPTION OF THE PROPERTY**

3. On the morning of the 31<sup>st</sup> October 2007, the Committee inspected the property which comprised a mid terrace house, built around 1993, which is located in a residential area with good access to shopping and transport. It is of two storey red and buff brick construction with a tiled roof. It has the benefit of its own front door entrance and a private enclosed garden to the rear of the property. It is double glazed throughout and has white meter storage heating. Although the property appeared to have a burglar alarm system this was not operational and never had been throughout the tenancy. It was not fitted by the landlords and was not included as part of the tenancy.
4. The accommodation extends to three bedrooms, a lounge/dining room, kitchen, bathroom, and an additional WC and hand basin. The lounge/dining

room had been a large open plan room but has been divided by the tenant by means of a partition wall and glass doorway. The tenant has made some decorative changes to the room by installing wooden flooring and a mock fireplace. The kitchen is of reasonable size with a window looking onto the garden of the property. The kitchen units have been supplied by the landlord but are nearing the end of their useful life and would benefit from replacement. All three bedrooms were of good size. The main bedroom had only one single window and the tenant pointed out cracks in the ceiling. The Committee was satisfied that these were cosmetic only and could be eradicated by re-decoration. The two other bedrooms both had double windows. The bathroom also had a cosmetic crack in the ceiling. There is a small window. The tenant complained that the bath required to be replaced or re-enameled but it appeared to the Committee to be functional. The shower above the bath was somewhat dilapidated, but the tenant confirmed that it is operational. In any event, this would appear to be a previous tenant's improvement which has not been adopted by the landlords and does not form part of the Tenancy Agreement. The additional WC and small hand basin is located off the downstairs hallway. The hallway also housed a cupboard containing the electrical fuse boxes and meter. The tenant complained that the electrics in the property caused regular problems, and that she could not use her immersion heater. She confirmed that she did have access to hot water via the white meter system. She complained that the hot water storage cylinder was leaking. The fuse for the cooker was switched off at the time of the Committee's inspection, and the tenant explained that she kept it switched off when it was not in use as a precaution. She stated that she did not trust the electrical system within the property.

5. The landlord was not represented at the inspection. Ms L. Dallas and Ms C. Greenhorn introduced themselves to the Committee outside the property but did not remain to observe the inspection.

## **DOCUMENTATION**

6. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:
- a) Form RR1 dated 30<sup>th</sup> June 2007;
  - b) Letter of appeal from tenant dated 31<sup>st</sup> July 2007;
  - c) Notification from the Scottish Executive of a Fair Rent appeal, dated 31<sup>st</sup> July 2007;
  - d) Written representations from the landlords dated 6<sup>th</sup> September 2007;
  - e) List of recently registered rent decisions provided by the clerk plus details of these properties.

## **HEARING**

7. The tenant did not attend the hearing.
8. Ms Dallas appeared on behalf of the landlords. Ms Greenhorn accompanied her as an observer. Ms Dallas made reference to the landlords' rent policy and explained that the landlords are trying to harmonise the rents. She argued that the rent policy was transparent and fair to all the tenants. She stated that the landlords have a high waiting list in the Bridgeton area, and that this type of property is regarded as being desirable. She acknowledged that the kitchen units are in need of modernization and could do with being replaced. She explained that the landlords had prioritized the capital programme and other issues had taken priority over the replacement of kitchen fittings. She took no responsibility for the shower, which she stated was not supplied by the landlords and was probably a tenant's improvement. She stated that she was unaware of any problem with the electrics and queried whether the tenant may have overburdened the system with too many appliances. The Committee pointed out to her that another of their properties, 19 Kinnear Road, had been the subject of consideration by a Rent Assessment Committee on 30<sup>th</sup> January 2007. Ms Dallas indicated that the

property at 19 Kinnear Road was in a better location but was not of such an attractive design as the property now under consideration.

## THE DECISION

9. In terms of section 48(1) of the 1984 Act, 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”*. 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)). There were no such defects in this particular case, nor was any furniture provided. Improvements by the landlord are taken into account. In reaching its determination, the Committee complied with its duty as set out above.
  
10. The Committee considered carefully all the evidence presented, together with the observations made by the Committee members at the inspection. In particular, the Committee considered carefully which of the three alternative methods of ascertaining a fair rent was most appropriate in this case. 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. In this case, neither party produced

any evidence as to capital values or registered rents of comparable houses. Ms Dallas submitted at the hearing that tenants of other properties in the same street were paying £333.78 per month, calculated in accordance with the landlords' rent policy.

11. Mindful of the observations by the Lord President in Western Heritable Investment Co. Ltd v Hunter (2004), 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. In this case, the addresses of two possible comparable properties had been provided by the clerk. One was described as a new semi-detached house and the other was a pre-1919 tenement flat. In both cases the rent had been fixed by the Rent Officer rather than a Rent Assessment Committee, and no statement of the reasons for the decision was therefore available. The properties were therefore dissimilar in style and the rationale behind the rents fixed by the Rent Officer could not be ascertained. The Committee did not regard these properties as being useful comparables. The Committee did, however, have knowledge of another property namely 19 Kinnear Road, Dalmarnock, Glasgow G40 3JS. This property is smaller and has only two bedrooms but it is a mid terrace property of a similar age and type of construction located within the general vicinity of the property now under consideration. The Committee considered that this was a suitable comparable for the property now under consideration. In relation to that two bedroom property, a Fair Rent of £4,200 was fixed effective from 8<sup>th</sup> November 2006.

12. The Committee considered that using the comparable registered rent based on the property at 19 Kinnear Road, and making adjustments to take account of the short passage of time between the effective dates for that property and this (approximately seven months), and the additional size of this property, would lead to a Fair Rent figure of £4,500 per annum being fixed for this property. The Committee noted that Ms Dallas had indicated that the Kinnear

Road property was of poorer design but in a better location and considered that these factors cancelled each other out. Using the comparable registered rent method, therefore, a Fair Rent for the property now under consideration would be £4,500.

13. The Committee then proceeded to use the market rent method as a crosscheck. Using its knowledge and experience, the Committee considered that a market rent for a furnished three bedroom property of the type and in the locality of the present property, would be in the region of £525 per month. However, the present property, being unfurnished and without white goods or carpets, would be unlikely to achieve that figure. The Committee also accepted that there was a problem with the electrics, as we considered it unlikely that the tenant would keep her cooker fuse switch turned off without good reason to do so. We also took account of the poor condition of the kitchen units, which we considered would require to be replaced before the property would achieve the open market rental figure we refer to above. We considered that a total of £150 per month should be deducted from the open market figure to take account of these factors, leaving a net figure of £375 per month. We then proceeded to consider whether any further deductions required to be made in terms of section 48(2) (the factor commonly referred to as "scarcity") or 48(3) (the factor commonly referred to as "disregards") of the 1984 Act .

14. 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.

15. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the area of Glasgow as a whole, there could not be said to be scarcity of similar properties to let at the present time. There may be a shortage of *Housing Association* properties available, but that is not the same thing, as social landlords do not seek to charge the full open market rent. 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.
16. The Committee then considered whether any matters fell to be disregarded under section 48(3). Section 48(3) requires that defects or issues of disrepair caused by the tenant, or improvements carried out by the tenant should be disregarded when valuing the property for the purpose of fixing a Fair Rent. This is because the tenant is not entitled to benefit from defects in the property for which he or she is responsible, and nor should he or she be penalised for improvements he or she has made. The Committee was satisfied that no significant issues of disrepair fell to be disregarded, and we ignored decorative improvements made by the tenant when making our assessment.
17. Both the comparable registered rent method and the market rent method produced a Fair Rent figure of £4,500. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £4,500.00 per annum. In reaching this decision, the Committee had regard to all documentary and other evidence, and all the circumstances that required



to be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

18. In section 49 of the Rent (Scotland) Act 1984, it is declared that the amount to be registered shall include any sums payable by the tenant for services. In this case no services are provided.

19. It should be noted that, although the Committee has assessed a Fair Rent for the property to be £4,500, the landlords are under no obligation to charge that figure. The Committee is required to fix a Fair Rent for the property in accordance with the terms of section 48 of the Rent (Scotland) Act 1984. Fair Rents fixed by the Committee must be recorded in a Register and rents so registered can be used as possible comparables in relation to other regulated tenancies. Such rents must therefore properly reflect the market at the time they are set. Landlords are not obliged to charge this figure if they do not wish to do so. They are entitled to charge a lower figure in line with their published rent policy if they so wish. They cannot, however, exceed the figure that has been fixed by the Committee.

20. The effective date is 20<sup>th</sup> June 2007.

Signed **I Montgomery** ..Chairman)

Date ..... 16.11.07 .....