



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/PA16/716	7 October 2009	Landlord

ADDRESS OF PREMISES

1/1, 26 Newton Street, Greenock, PA16 8SL

TENANT

Mrs J Lang

NAME AND ADDRESS OF LANDLORD

Talpha Investment Co. Ltd.

AGENT

Inverclyde Letting Agency
120 West Blackhall Street
Greenock
PA15 1XR

DESCRIPTION OF PREMISES

First floor tenement flat circa 1900 with double glazing comprising living room, two bedrooms, kitchen and bathroom.

Gross floor area = 70 square metres.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
LAYMEMBER

Mr S Walker LLB(Hons) Dip LP ACI Arb.
Mr G Campbell FRICS
Mrs S Brown

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£4030.00 p.a.	25 November 2009	25 November 2009

S Walker

Chairman of Private Rented Housing Committee

1st December 2009

Date



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

1/1 & 1/2, 26 Newton Street, Greenock, PA16 8SL

INSPECTION:

25th November, 2009

STATEMENT OF REASONS

INTRODUCTION

1. This is a reference to the Private Rented Housing Committee for the determination of a fair rent under the Rent (Scotland) Act 1984 by the landlord, Talpha Investment Co Ltd ('the landlord'), in relation to the properties at 1/1 ('property 1') and 1/2 ('property 2'), 26 Newton Street, Greenock, PA16 8SL.
2. The original rent paid by the tenant, Mrs C Redford ('the tenant') in respect of property 1 was £2,613.00 per year. The landlord applied for rents of £3,266.25 per year for the property. The Rent Officer determined a rent of £3,120.00 per year. The landlord referred the Rent Officers determination to the Private Rented Housing Committee.
3. The original rent paid by the tenant, Mrs J Lang ('the tenant') in respect of property 2 was £2,613.00 per year. The landlord applied for rents of £3,266.25 per year for the property. The Rent Officer determined a rent of £3,120.00 per year. The landlord referred the Rent Officers determination to the Private Rented Housing Committee.
4. The tenants attended each inspection. Neither party requested a Hearing.
5. The Committee comprised

Chairman	Mr. S Walker
Surveyor	Mr G Campbell
Housing Member	Mrs S Brown

THE DOCUMENTATION

6. The Committee had the following documents before it:

Property 1

RR1, the written representations from the landlord dated 13th March, 2009 and 9th October, 2009 and tenant dated 12th October, 2009 and comparable rents.

Property 2

RR1, the written representations from the landlord dated 13th March, 2009 and 9th October, 2009 and tenant dated 16th October, 2009 and 25th November, 2009 and comparable rents.

THE INSPECTION

Property 1

7. Mr Robert Shea, Clerk to Committee, introduced the Committee to the tenant. The tenant advised the Committee that she has lived in the property for some 60 years. She advised that the Landlord installed double glazed windows some time ago and also installed a bathroom suite. She also advised Committee that there was no central heating in the property.

Property 2

8. Mr Robert Shea, Clerk to Committee, introduced the Committee to the tenant. The tenant advised the Committee that she has lived in the property for some 28 years. She advised that the Landlord installed double glazed windows in or around 1994 and also installed kitchen units. She also advised Committee that there was no central heating in the property.

DESCRIPTION OF THE PROPERTY

Property 1

9. The property is a first floor flat in a traditional four storey blond sandstone tenement building built c. 1900 with double glazing throughout and comprising of 2 bedrooms (one with gas fire), kitchen,

bathroom and livingroom with gas fire and drying green to rear. No central heating.

Property 2

10. The property is a first floor flat in a traditional four storey blond sandstone tenement building built c. 1900 with double glazing throughout and comprising of 2 bedrooms, kitchen, bathroom and livingroom with gas fire and drying green to rear. No central heating.

DECISIONS AND REASONS

11. Section 48 of that Act as amended provides that:

48.— Determination of fair rent.

(1) In determining for the purposes of this Part of this Act what rent is or would be a fair rent under a regulated tenancy of a dwelling-house, it shall be the duty of the rent officer or, as the case may be, of the private rented housing committee, subject to the provisions of this section, to have regard to all 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, to the quantity, quality and condition of the furniture.

(2) 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 on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof, and

(b) any improvement (including any improvement to the furniture provided for use under the tenancy), or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in

title of his, and

(c) if any furniture is provided for use under the regulated tenancy, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.

(4) In the application of this section to a converted tenancy, the references in subsection (3) above to the tenant under the regulated tenancy shall include references to the tenant under the tenancy before the conversion.

12. 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".

13. 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)). The Committee was not made aware of any such defects in this particular case (other than some normal external settlement for a building of this age), and no furniture is provided in terms of the tenancy. Improvements by the landlord should be taken into account. In reaching its determination, the Committee complied with its duty as set out *supra*.
14. The Committee considered carefully all the evidence presented, together with the observations made by the tenants and 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.
15. 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.

16. In this case, the landlord produced evidence as to market rents of comparable properties in respect of property 1 and 2. The tenant of property 2 produced evidence as to registered rents of comparable properties.
17. 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. The Committee had the benefit of its own knowledge and experience of the rents passing and being asked in the local market. In these circumstances, the Committee decided that the best method to use in this case was the market rent less any discount for scarcity method at (b) *supra*.
18. In addition to the information supplied by the parties, the Committee from its own experience, knowledge and information available on the internet and from local letting agents considered that comparable properties for the rental of 2 bedroom properties in the Greenock area ranged from £400.00 pcm to £450.00 pcm. The Committee was of the opinion that the appropriate market rent in respect of both properties was an average of £425.00 pcm in respect of property 1 and 2 which are directly analogous and comparable properties.

19. 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.

20. The Committee considered whether any discount should be made for scarcity in this case, but was satisfied that in the area of Greenock as a whole, there could not be said to be scarcity of similar properties to let at the present time. On the contrary, there appears to be a surplus of supply over demand in relation to the availability of properties for rent, which is the opposite of the scarcity situation. 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.

21. The Committee considered that a number of deductions should be made to take account that any new tenant would require a new kitchen, new white goods and central heating in respect of property 1 and 2. The Committee considered that the appropriate market rent in respect of property 1 and 2 was £5,100.00 per year. The Committee further considered that a deduction was appropriate of £1,070.00 per year in respect of improvements which would be required to the kitchen, white goods and central heating of property 1 and 2.

Property 1

22. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for property 1 was **£4,030.00** per year. In reaching this decision, the Committee had regard to all the evidence, and to all the circumstances that must be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

Property 2

23. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for property 2 was **£4,030.00** per year. In reaching this decision, the Committee had regard to all the evidence, and to all the circumstances that must be taken into account in terms of section 48 of the Rent (Scotland) Act 1984.

S Walker

Signed

Steven P Walker
Advocate & Barrister

Chairman
Private Rented Housing Committee

14th December, 2009