



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:

RAC/G3/816

OBJECTION RECEIVED

25 July 2011

OBJECTION

Tenant

ADDRESS OF PREMISES

B/R, 45 Bentinck Street, Glasgow, G3 7TS,

TENANT

Mrs P Herman-Smith

NAME AND ADDRESS OF LANDLORD

S Mingles
16 Keats Close
Newport Pagnell
MK16 8DW

AGENT

S Quaye-Sowah

DESCRIPTION OF PREMISES

Basement flat in traditional 4-storey and basement tenement building comprising bedroom, dark living room, dining kitchen, shower-room and WC.

Floor area....65 m²

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

J Bauld LLB(Hons) DIP LP
M Links FRICS
C Harvey

FAIR RENT

£ 5,500.00 p.a.

DATE OF DECISION

3 October 2011

EFFECTIVE DATE

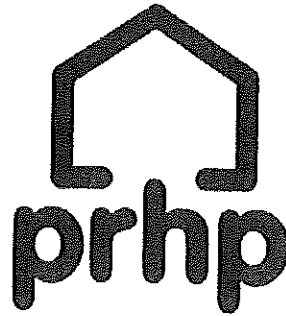
3 October 2011

J Bauld

Chairman of Private Rented Housing Committee

3 October 2011

Date



Determination by Private Rented Housing Committee

Statement of Reasons for by the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

In connection with the inspection on 3rd October 2011 of the property at

Flat B/R, 45 Bentinck Street, Glasgow, G3 7TS

Case Reference Number: RAC/G3/816

The Parties:-

1. The landlords of the property is Mr. S Mingles , c/o 16 Keats Close, Newport Pagnell, MK16 8DW per his agent Mr Sam Quaye-Sowah who resides at 44 Shawwood Crescent, Newton Mearns, Glasgow. The tenant is Mrs Penelope Herman-Smith who resides at the property. The tenancy is a regulated tenancy in terms of the Rent (Scotland) Act 1984.

Background:-

2. The current rent for the property is £5,004 per annum (£417 per month). The landlords proposed an increased rent to £5,820 per annum (£485 per month). The rent officer determined a rent of £5,806.64 per year (£483.88 per calendar month) with effect from 17th June 2011. The tenant appealed that determination to the Private Rented Housing Panel ("PRHP").

The Inspection:-

3. The Private Rented Housing Committee consisting of Mr James Bauld, Chairman, Mr Mike Links, surveyor and Mr Christopher Harvey, housing member, inspected the property on 3rd October 2011.
4. The property is situated in a grey sandstone tenement block consisting of 4 storeys above a basement. The property appears to have a slate roof. The property is situated within the basement. The property consists of a dark living room, a kitchen/dining room, a bedroom, a hall, a shower room and a toilet. There are windows within the kitchen/dining room and the bedroom which look out onto the back court of the property. The gross internal floor area amounts to 65 square metres or thereby. The property has a gas fired central heating system which had been installed by the landlords. The windows were original wooden framed single glazed sash and casement type windows. The property has a secure door entry system. The property has access to a communal back court

area which was in good condition and contained the bin storage area. The property is conveniently situated for public transport links, local shops and services. The property is close to Kelvingrove Park and the University of Glasgow. On street parking was within marked bays controlled by a pay and display machine. It is assumed that there would be a residents' parking permit available. The property was built in or around 1890. The property appeared to have been externally refurbished some years ago.

The hearing

5. The inspection was attended both by the tenant and the landlord's agent. After the inspection, the parties were happy that the Committee convened within the property itself to hear the parties. In addition to the parties, Miss Natasha Gerson, a friend of the tenant, was present during the hearing.
6. The Committee had the following documentation before them:-
 - Copy Form RR1 in respect of the property being the landlord's application for registration of rent dated 9th April 2011
 - Determination by the Rent Officer dated 22nd July 2011
 - Written representation received from the tenant dated 11th August 2011
7. The Committee considered all the documents provided. The Committee also listened to both the tenant and the landlord's agent during the hearing and noted their comments on what they thought the appropriate rent should be.
8. The tenant indicated that since the determination by the rent officer she had paid £442 per month to the landlord. She regarded that as a fair rent being an increase of approximately 6% on the then previous rent of £417 per month. She indicated that payments had been made in July, August and September. The tenant indicated she had lived in the property for 24 years and that she had carried out certain works to the property over that time including interior decoration and the provision of furniture and floor coverings. She indicated that the rent had first been registered in or around 1996 and had been reviewed every three years. She indicated that her suggested rent figure of £442 per month was based upon an increase of approximately 6% on the existing rent. She had no knowledge of any comparable properties in the area or any other comparable rents. She accepted that her property was very unusual given its layout and the existence of the dark living room.
9. The landlord's agent indicated that their proposed rent of £485 was based on a number of factors. They had looked at comparable rents in the general Kelvingrove area. They had looked at online advertisements showing similar flats for rent. The landlord's agent indicated that in general terms the rent for a one bedroom property was over £500. He had seen a range of rents between £500 and up to and over £600 per month. When setting the rent at £485 they were attempting to be fair and they recognised that the particular property was slightly unusual. The landlord thought that £485 was a fair rent for the property.
10. The hearing then considered the works which had been carried out recently to refurbish the kitchen/dining room within the property and works to improve the shower room and the toilet. The tenant's position was that she had paid almost £3,000 towards these refurbishments. The landlord's agent's position was that with regard to the works in the kitchen, the tenant had paid extra for additional works over and above what the landlord was required to provide. The landlord's agent also indicated that he was unaware that any refurbishment work had been carried out to the toilet. This was accepted by the tenant. Neither party could produce invoices in respect of the works which had been carried out.

11. The tenant also indicated that in her view the wiring within the property needed to be checked and possibly required to be upgraded. She conceded that she had not yet made this request to the landlord.
12. With regard to the landlord's agent's statement that the average rents in the area were between £500 and £600 per month, the tenant commented that she assumed those rents would be for a fully improved flat and that with regard to her particular flat the only improvements which had been carried out were the recent ones to the kitchen and the shower room. It was agreed by parties that some furniture had been provided by the landlords at the start of the tenancy but that to all intents and purposes the furniture within the property was now that of the tenant.

The Decision

13. The Committee were mindful of Section 48(1) of the Rent (Scotland) Act 1984 which requires the Committee to have regard to all of the circumstances (other than personal circumstances) and in particular to apply their knowledge and expertise of other rents for comparable properties in the area as well as having regard to the age, character and locality of the dwellinghouse in question and to the state of repair and, if any, furniture provided for use under the tenancy the quantity, quality and condition of the furniture.
14. The Committee are also required to assume that in terms of Section 48(2) of the said Act that "the number of persons seeking to become the tenants of similar dwellinghouses in the locality on the terms (other than those related to rent) of a regulated tenancy is not substantially greater than the number of dwellinghouses in the locality which are available for letting on such terms.
15. No capital valuations of the property were provided to the Committee. The Committee were not provided with copies of any relevant rentals for comparable properties by either the landlord's agent or the tenant. Accordingly the Committee simply proceeded to exercise their own knowledge and experience and considered the information which was available to them from other sources.
16. The Committee, from their own knowledge and experience were aware that the range of flats within the general area of the property ranged from approximately £500 per month to £650 per month. The Committee took the view that the average rent for a traditional tenement flat of the same size as the property under consideration would be approximately £550 per month (£6,600 per annum). The Committee accordingly took the view that the fair market rent for a fully modernised traditional flat in this locality of a similar size and location as the subject property would be £6,600 per annum.
17. The Committee however further determined that the present property was let as unfurnished and did not benefit from the normal amenities and facilities that would be expected in such a flat. Firstly the Committee noted that the property's living room had no natural lighting or window. Secondly the committee noted that the shower room had an area of restricted headroom. The Committee took the view that a deduction required to be made to the rental in that regard. The committee took the view that the appropriate deduction in that regard was £600 per annum or £50 per month.
18. The Committee further noted that the property did not have double glazing, that the wiring within the property was old and that the property did not benefit from floor coverings or decoration generally provided by the landlord. The Committee therefore considered that a further reasonable deduction was required to reflect these differences between the subject property and the general market rents for flats of the same size and in the same location.
19. The Committee considered the cost of providing double glazing within the property, the works required in connection with upgrading the wiring and the provision of appropriate floor coverings and decoration. The Committee took the view that the costs involved would justify a further reduction in the annual rent of £500 per annum. Accordingly the

Committee determined that a fair rent for the property would be £5,500 per annum, being the market rental level for a fully modernised traditional flat under deduction of the various work required to reflect the difference between such a flat and the property under inspection and to reflect the lack of natural daylight in the dark living room and the restricted headroom in the shower room. The Committee accordingly determined that the fair rent for the property should be £5,500 per annum or £458.33 per month.

20. Having determined the rent, the Committee then considered whether there should be any scarcity deduction in terms of Section 48 (2) of the 1984 Act. Applying their skill, knowledge and experience, the members of the Committee could find no evidence of excess demand for properties such as the one under inspection and noted also that there appeared to be a large number of properties available for rent in the locality of the subjects. The Committee accordingly determined that there was no scarcity of properties.
21. Having considered all the relevant factors, the Committee decided a fair rent for the property at Flat B/R, 45 Bentinck Street, Glasgow should be £5,500 per annum. The Committee decided that this rent should apply from the date of the determination being 3rd October 2011. In reaching this decision the Committee have had regard to all of the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.
22. The decision of the Committee was unanimous. This decision takes effect from 3rd October 2011.

Signed **J Bauld**

Date ... 5 October 2011

James Bauld, Chairperson

Signature of Witness. **G Williams**

Date ... 5/10/11

Name: GILLIAN WILLIAMS

Address: 7 West George Street, Glasgow, G2 1BA

Designation: SENIOR COURT ADMINISTRATOR