



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G20/680	3 February 2009	Landlord

ADDRESS OF PREMISES

2/2, 6 Mingarry Street, Glasgow, G20 8NT

TENANT

Mrs H Leadbetter

NAME AND ADDRESS OF LANDLORD

Angus & Iris McLean

AGENT

Hacking & Paterson
1 Newton Terrace
Glasgow
G3 7PL

DESCRIPTION OF PREMISES

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

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR

Mrs A Devanny LLB NP
Mr D Marshall FRICS

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 5100.00 p.a.	9 April 2009	9 April 2009

A Devanny

Chairman of Private Rented Housing Committee

9th April 2009.

Date



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Thursday 9 April 2009

of the Property

Flat 2/2, 6 Mingarry Street, Glasgow G20 8NT
(hereinafter referred to as "the flat")

Reference RAC/G20/680

INTRODUCTION

Reference has been made to the Private Rented Housing Committee for the determination of a fair rent for the flat under the Rent (Scotland) Act 1984 ("the 1984 Act").

The Landlords of the flat are Angus and Iris Maclean, whose agents are Hacking and Paterson Management Services, 1 Newon Terrace, Charing Cross, Glasgow G3 7PL. The Tenant of the flat is Mrs. Helen Leadbetter. The annual rent for the flat was last registered on 31 January 2006 at the figure of £2900. On 8 December 2008, the Landlord applied to have the annual rent increased to £4800. The Rent Officer determined the annual rent for the flat at the figure of £3800 with effect from 5 February 2009.

The reference to the Private Rented Housing Committee has been submitted by the Landlords.

INSPECTION

The Committee inspected the flat on the morning of 9 April 2009. At the inspection the Tenant and the Tenant's son, Mr. Ronald Leadbetter, were present. No

Representative of the Landlords attended the inspection.

The flat is located on the right hand side of the second floor of a four storey traditional buff sandstone tenement which was constructed circa 1900. The tenement has a tiled roof. There is a secure entry door to a communal close and the close and stairs were in reasonable decorative order and litter free at the time of inspection. The large communal rear backcourt and drying green is accessed by an outside stair from a secure external door leading off the common close. The rear communal backcourt and drying green at the time of inspection were tidy and tastefully laid out to grass and shrubs which were well tended. There is a communal bin store area located at the rear of the backcourt and access to the back court and drying green area is obtained from a lane which runs to the rear of the tenement. There is evidence of old settlement to the rear of the tenement building which has been addressed by remedial works.

Double storm doors lead to a vestibule and then into the hallway of the flat which has a large cupboard containing the electrical fuse box and gas meter. The flat has been rewired and the age of the fuse box would suggest that this was undertaken about 10/12 years ago when the Committee were advised that flat was renovated. Off the hallway is a livingroom with bay window and a large walk in cupboard, two double bedrooms, dining kitchen with recess and narrow bathroom with modern white 3 piece suite. The Landlords have provided a free standing stainless steel sink unit in the kitchen but no wall or base units. There are no white goods, carpets, floor coverings, furniture or services provided by the Landlords. The Tenant has carried out improvements to the flat which were disregarded for the purposes of the inspection. The flat has double glazed sash and case windows provided by the Landlords and the Tenant has fitted draft excluders onto the windows. The Tenant complained that the bathroom window was difficult to open.

The flat has no space heating provided by the Landlords and water is heated by an immerser heater. The Tenant provides all the heating appliances.

The Tenant complained that the Landlords had provided no improvements in the last 10 years. The Committee noticed some sloping floors particularly in the kitchen which were consistent with old settlement but which did not detract substantially from the property.

The flat is situated in a desirable residential street near shops, and transport links. It is within walking distance of Great Western Road, the Botanic Gardens, Glasgow University, Byres Road and the Western Infirmary. Parking is on street with available spaces just outside the flat at the time of inspection.

HEARING AND REPRESENTATIONS

Only the Tenant of the flat and the Tenant's son intimated in writing that they wished to attend the hearing before the Committee. The Landlords did not respond with representations. The hearing with the Tenant and her son took place at the flat following the inspection.

The Landlords, beyond submitting the appeal, provided no written representations.

The Tenant of the flat in her written representations emphasised the large increase in the rent; that no improvement works of any nature had been undertaken by the Landlords for over 10 years; that the flat was without central heating and a fitted kitchen; and concluded that the Rent Officer's assessment of a fair rent should be followed.

At the hearing the Tenant's son indicated that there was a large number of properties for let in the G20 postcode area; he emphasised the expenditure required to bring the flat up to a modernised standard; he highlighted the large percentage increase in rent being sought for the flat well in excess of the rate of inflation; he highlighted that no improvements had been made by the Landlords for over 10 years; and concluded that the Rent Officer's determination had been generous to the Landlords but that his mother was prepared to agree to the Rent Officer's assessment of £3800. He produced details of flats for rent in the G20 postcode area from internet sources. The rents for these comparables ranged from £425 to £600 per month. He also referred to details of registered rents set by the Rent Officer for 3 properties in the vicinity of the flat as follows:-

Flat 1/2, 69 Clouston Street (5 rooms, kitchen and bathroom) Effective date 7/04/08
Registered rent £3850

Flat 3/2, 37 Clouston Street (4 rooms, kitchen and bathroom) Effective date 28/5/08
Registered rent £3980

Flat 0/1, 91 Oban Drive (2 rooms, large kitchen and bathroom) Effective date
16/02/08 Registered rent £3200

On the issue of scarcity, Mr. Leadbetter agreed that there is a plentiful supply of properties being advertised for rent in the Glasgow area.

DECISION

The Committee considered most carefully the written documentation before it, viz.: -

1. RRI Application for the flat, dated 5 December 2008 and received on 8 December 2008.
2. Landlords' letter of appeal dated 28 January 2009.
3. Notification of fair rent appeal from Rent Registration Service for the flat dated 2 February 2009.
4. Rent Register Page.
5. Tenant's representations dated 18 February 2009.
6. List of registered rent decisions compiled by the Clerk to the Committee relating to:

G023506 2/1, 6 Garrioch Drive, Glasgow G20 8RP
RAC/G20/646 1/1, 2 Mingarry Street, Glasgow G20 8NT
RAC/G40/647 3/2, 2 Mingarry Street, Glasgow G20 8NT

7. Letting Schedules for various G20 postcode properties for rent referred to by Mr.

Leadbetter at the hearing.

8. Statement of Reasons for rent determinations for Flats at 1/1 and 3/2, 2 Mingarry Street, Glasgow dated 3 September 2008

The Committee considered all the written evidence, submissions and representations together with the observations of Committee Members at the inspections. 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 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, 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 carefully considered whether there was evidence of scarcity in the rental market. Whilst travelling to the inspections the Committee were aware of a proliferation of "To Let" signs in the inspection area. Inquiries with West End letting companies produced an extensive list of available properties for rent. Internet sources similarly produced numerous properties for rent in the area where the flat under consideration is located. A report prepared by citylets.co.uk into the 'Trends in Scottish Residential Lettings' for Winter 2008 states " Stocks of rental property in Scotland continued to climb throughout the last quarter of 2008 as more new supply from 'reluctant landlords' came onto the market. Properties took longer to let than in Q4 of last year (2007), rental growth is slowing and the year ahead looks to be very different to 2008".... "While greater choice of rental accommodation is good news for tenants established landlords face the prospect of longer voids as properties take longer to let and, with increased competition for tenants, the capacity for rental growth looks limited"... " It looks as if the upward trend in Glasgow may have come to an end with a fall in average rents to £567"...In Q4 2008, "the average time to let rose to 37 days (2 days longer than in Q4'07). Much of the rise can be attributed to one bedroom flats, where TTL's lengthened significantly". This evidence reinforces the Committee's view that the rapidly changing trends in residential lettings reflect the turmoil in financial markets and the economic slowdown. Rental stocks are rising as more owners unable to sell are entering the letting market and demand, although remaining relatively healthy by expectations of further house price declines and limited accessibility to mortgage finance, is dampening due to unemployment levels. Taking into account the plentiful supply of one and two bedroom flats and the average time to let in the area, the Committee concluded that at present there should be no scarcity deduction in the Glasgow area.

The Committee went on to consider which of the alternative methods of ascertaining

a fair rent was the most appropriate in this case. The three accepted methods 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) of the said Act;
- (c) calculating the appropriate return based on capital value of the property, taking into account the element of scarcity.

None of these methods is regarded as the primary method.

There was no evidence produced regarding capital values and given the lack of available evidence, the Committee decided that it was not appropriate to proceed on the basis of an appropriate return on capital values.

The Committee considered registered rents for comparable houses in the area. The Committee considered the rent registered after appeal for the flat at Flat 3/2, 2 Mingarry Street, Glasgow. This, like the flat under consideration by the Committee, is a three roomed property with dining kitchen and bathroom and both flats lie within the same building. The Committee noted that the rent for Flat 3/2, 2 Mingarry Street had been determined by PRHP and a copy of the Statement of Reasons was before the Committee and the annual rent for this property had been determined at £4800. It was noted that the flat at 3/2, 2 Mingarry Street had only two rooms with modern double glazed windows and the remaining windows were the original single glazed timber windows. In addition, it was noted that the house at 3/2, 2 Mingarry Street had signs of water damage and staining of decoration although remedial work had been undertaken. A sum of £30 had been deducted from the monthly rent of the flat at 3/2, 2 Mingarry Street because that flat had only partial double glazing. The flat under consideration by the Committee at 2/2, 6 Mingarry Street had the benefit of relatively new sash and case double glazed windows in all rooms and there was no evidence of water penetration and staining of the decoration. The Committee considered that based on this comparable registered rent that a monthly rent of £425 for the flat at 2/2, 6 Mingarry Street would be a fair rent. The Committee considered the registered rent comparables produced by the Tenant but none of these comparables had been assessed by the PRHP and they were all comparables assessed by the Rent Officer and there were no details of the condition of these properties, whether scarcity had been considered or the rent assessment method used by the Rent Officer. In addition, these comparables seemed well below the evidence of current market rents of similar unimproved flats in the vicinity.

The Committee considered that to establish a fair rent it was appropriate to compare open market rents for similar properties in the vicinity of the flat. The Committee's investigations with letting agents and internet sources revealed that on average improved furnished two-double bedroomed tenement flats in the vicinity of Mingarry Street with double glazing and gas central heating are being advertised for rent at £550 per month (which equates to annual rent of £6600). From this monthly rental figure the Committee made deductions of £40 to reflect the unfurnished nature of the flat at 2/2, 6 Mingarry Street, £25 for the absence of white goods, floor coverings and carpets in the flat, £30 for the absence of central heating, and a deduction of £30 for

the unimproved nature of the flat and the kitchen. The Committee after disregards for Tenant's improvements and deductions as aforesaid concluded that the market rent for the flat should be £425 per month or £5100 per year.

The Committee cross checked this rent assessment by considered the capital outlay of supplying furniture and appliances at the flat, installing central heating, replacing the kitchen fittings, decorating and replacing flooring which would be in the region of £14000. The Committee then considered that this capital expenditure would have a reasonable life expectancy of 10 years which justifies a reduction of £1400 from the annual rent of £6600 for similar improved properties. Consequently the rent arrived at by this method is £5200 per annum which equates to £433 per month which is consistent with the figure assessed by the Committee previously of £425 per month.

The Committee considered for the reasons already outlined that there should be no deduction from the rent for scarcity.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the flat is £425 per month, which equates to £5100 per annum.

In reaching this decision, the Committee has had regard to all the requirements of Section 48 of the 1984 Act.

The decision takes effect from the Ninth day of April, Two Thousand and Nine.

A Devanny

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Chairperson,
16th April 2009