



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

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

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<b>REFERENCE NO:</b>	<b>OBJECTION RECEIVED</b>	<b>OBJECTION</b>
RAC/G41/627	25 February 2008	Agent

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**ADDRESS OF PREMISES**

2/2 33 Main Street, Glasgow, G40 1QA

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**TENANT**

Mrs D Mackie

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**NAME AND ADDRESS OF LANDLORD      AGENT**

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

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**DESCRIPTION OF PREMISES**

Large second floor flat in two adjoining traditional tenement buildings built circa 1900. The accommodation has gas central heating and comprises 3 rooms, dining kitchen and bathroom.

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**SERVICES PROVIDED**

None

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**COMMITTEE MEMBERS**

**CHAIRMAN**  
**PROFESSIONAL MEMBER**  
**LAYMEMBER**

Mrs I Montgomery BA(Hons) NP  
Mr A English FRICS  
Mr T Keenan

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<b>FAIR RENT</b>	<b>DATE OF DECISION</b>	<b>EFFECTIVE DATE</b>
£3,780 p.a.	14 May 2008	23 January 2008

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**I Montgomery**

Chairman of Private Rented Housing Committee

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Date

14th May 2008

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# **PRIVATE RENTED HOUSING COMMITTEE**

## **STATEMENT OF REASONS**

INSPECTION AND HEARING: 14<sup>th</sup> May 2008

PROPERTY: -2/2, 33 MAIN STREET, BRIDGETON, GLASGOW G40 1QA.

### **INTRODUCTION**

1. The Committee comprised Mrs. I.R. Montgomery (Chairman), Mr. A. English (Surveyor) and Mr. T. Keenan (Housing panel member). The landlords are The new Housing Association, Glasgow G40 1QA. The tenant is Mrs D. Mackie. 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 second floor traditional tenement flat at 2/2, 33 Main Street, Bridgeton, Glasgow G40 1QA arises from dissatisfaction on the part of both landlord and tenant.
2. The previous rent was £1,994.64 per annum. The landlord applied for a rent of £2,577.12 per annum. The rent determined by the Rent Officer was £2,400.00 per annum.

### **DESCRIPTION OF THE PROPERTY**

3. On the morning of the 14<sup>th</sup> May 2008, the Committee inspected the property which comprised a second floor traditional tenement flat. The tenement building was built around 1900, and is located in a mixed residential/commercial area with excellent access to shopping and transport. There are shops located on the ground floor of the building. The tenement building is of four storey red sandstone construction. Externally, the building appeared to be in a reasonable state of repair, although the tenant complained of water regularly lying in pools on the ground to the rear of the building. The roof is tiled. There is a door entry system at the front of the building which was operational at the time of the inspection.
4. The accommodation is spacious, having been constructed in two adjoining tenement buildings at the time of the refurbishment in 1984. The

accommodation extends to three rooms, a dining kitchen and a bathroom. The lounge is a large bright room, and the tenant has decorated and laid flooring. The main bedroom is a very large double bedroom with a triple bay window. The second bedroom was smaller but was still a spacious double bedroom. There are a number of "dots" on the wall, which the tenant complains resist all her efforts to paint over them. The dining kitchen has a single window with a pleasant open outlook. The kitchen units were replaced by the landlord about six years ago and are modern and functional. There was evidence of condensation around the kitchen window. The bathroom contains a white bath and an avocado green WC and wash hand basin all supplied by the landlord. The mix of colours detracts from the appearance of the bathroom, but all the fixtures were perfectly functional. The bathroom has the benefit of natural light and ventilation from the window. The hallway is of good size and contains a walk in cupboard. There is a second exit onto the close which provides an additional fire exit. The hall floor boards squeak when walked upon and there are some cosmetic cracks on the wall. The back court was tidy at the time of the inspection.

5. The property has the benefit of gas central heating installed by the landlord. The flat is single glazed. The building was refurbished in about 1985, at which time the property was rewired.
6. The landlord was not represented at the inspection.

#### **DOCUMENTATION**

7. In addition to the Inspection Report, case summary sheet and extract from the Rent Register, the Committee also considered:
  - a) Form RR1 dated 22<sup>nd</sup> November 2007;
  - b) Letter from East End Community Law Centre dated 11<sup>th</sup> February 2008;
  - c) Notification from the Scottish Government of a Fair Rent appeal, dated 19<sup>th</sup> February 2008;

- d) ) Letter from East End Community Law Centre dated 26<sup>th</sup> February 2008;
- e) Letter from East End Community Law Centre dated 12<sup>th</sup> March 2008;
- f) Written representations form from the tenant dated 10<sup>th</sup> March 2008;
- g) Written representations form from the landlord dated 13<sup>th</sup> March 2008.

## HEARING

8. Both parties had requested a hearing, however, the landlord's representatives contacted the Panel to indicate that they would not be attending the hearing. That being so, the hearing took place within the property, with the consent of the tenant.
  
9. The tenant gave oral evidence at the hearing. She expressed concern at the amount by which her rent had been increasing every three years and stated that she found the increases terrifying. She pointed out that there were a number of aspects about her house which were less than ideal. She identified these as a) the squeaky floor in the hall, b) the windows are not double glazed, and c) she has a mixture of avocado green and white fittings in her bathroom. She expressed annoyance that she had not been allowed to choose the colour of the bathroom suite. She complained also that the close and stairs had not been properly completed and the tenants had eventually painted the stairs themselves. She complained that, although she had complained about a loose wire banging against her window, no-one had come to fix the problem. In relation to rents passing in the area, she stated that the landlord had increased the rent in respect of two other properties in the building by the same amount as was proposed in her case. She knew of a one bedroom flat which was leased for the sum of £171 per month, although she stated that the one bedroom flats are considerably smaller than her own flat. She argued that the rent proposed by the landlords was too high and should be set at a lower figure.

## THE DECISION

10. 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.
11. 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 recognised 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.
12. 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 only evidence provided by the parties relative to rental values was the oral evidence of the tenant. Her evidence was in relation to other Housing

Association rents, which are not calculated in the same way as either a Fair Rent or a market rent. Housing Associations calculate their rents in such a way as to cover their costs, rather than to maximize their profits. Their rents are generally lower than market rents for equivalent properties, and therefore are of limited assistance in assessing a market rent and then deducting for scarcity, if appropriate. However, the Committee is empowered by section 48(1) of the 1984 Act to apply their knowledge and experience of current rents of other comparable property in the area when determining a fair rent. There is an abundance of information available on the internet and in the media and from local letting agents about rents being sought and passing in the Glasgow area. The Committee considered that this evidence of market rents was the best evidence available, as it provided an up to date and more comprehensive picture of the current rental market.

13. The Committee was aware of a number of other properties of similar size within close proximity to the property now under consideration where rents well in excess of £400 per calendar month were being asked and achieved. Such properties, however, have been improved and have the advantages of double-glazing, white goods and carpets and a modern kitchen and bathroom. Some properties are offered fully furnished. The Committee considered that the flat now in question would easily achieve at least £400 per month if it were in a similar condition. However, the Committee must disregard any improvements made by the tenant, and therefore the present property must be valued as unfurnished, and without double glazing, floor coverings or any white goods. We considered that these factors would significantly reduce the amount which would be achieved on the open market. In particular, we considered that there would be significant market resistance to a property with no floor coverings or white goods, as purchasing and installing white goods and floor coverings would considerably add to the prospective tenant's moving expenses. We considered that an adjustment would have to be made to take account of these factors.

14. Disregarding tenant's improvements, the property under consideration is unfurnished and has no double glazing, floor coverings or white goods. For the reasons given above, we considered that there would be resistance to such a property in the private rented market. As there were a number of properties available for let within the general area at the time of our inspection, we considered that this flat, in the condition in which it must be valued, would only attract a tenant if the rent were lower than rents being asked for other similar properties. We considered that the market rent for this flat would fall below the figure of £400 per month achieved by other properties in the market. However, it is a spacious and attractive flat and we did not consider that the rent would require to be set at any lower than £315 per month in order to attract a tenant. We considered the figure of £3,780 to be reasonable for the landlord to ask and reasonable for the tenant to pay.
15. The Committee 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"). 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.
16. 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. Indeed, there were a number of similar properties available for let in the area of this property as at the date of the inspection. 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. That being so, the Committee was satisfied that the market rent in this case is also the Fair Rent.

17. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £3,780.00 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. The effective date is 23<sup>rd</sup> January 2008.

Signed **I Montgomery** .....Chairman)  
Date .....12th June 2008.....