



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G11/698	22 May 2009	Tenant

ADDRESS OF PREMISES

2/2, 19 Vine Street, Glasgow, G11 6BB

TENANT

Mrs H Lee

NAME AND ADDRESS OF LANDLORD

Legesgain Investments Ltd

AGENT

Redpath Bruce
103 West Regent Street
Glasgow
G2 2DQ

DESCRIPTION OF PREMISES

Second floor flat in a traditional sandstone tenement building C. 1900 with internal floor area of 40 sq m, comprising 2 rooms, dark kitchen and bathroom.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

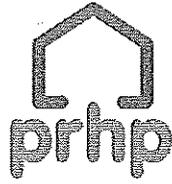
S Walker Dip LP ACI Arb
M Links FRICS
C Harvey

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4,000.00 p.a.	12 August 2009	12 August 2009

S Walker

Chairman of Private Rented Housing Committee

12th August, 2009
Date



**PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF REASONS**

PROPERTY:

2/2, 19 Vine Street, Glasgow

INSPECTION:

12 August, 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 tenant, Mrs. H. Lee ("the tenant"), in relation to the property at 2/2, 19 Vine Street, Glasgow ("the property"). The landlord is Legesgain Investments Ltd ("the landlord") whose Agent is Messrs. Redpath Bruce Prop. Man., 103 West Regent Street, Glasgow, G2 2DQ. The original rent paid by the tenant was £2,650.00 per year. The landlord applied for a rent of £3,422.00 per year for the property. The Rent Officer determined a rent of £3,250.00 per year. The tenant referred the Rent Officer's determination to the Private Rented Housing Committee.
2. The tenant attended the inspection. Neither party requested a Hearing.
3. The Committee comprised

Chairman	Mr. S Walker
Surveyor	Mr M Links
Housing Member	Mr C Harvey

THE DOCUMENTATION

4. The Committee had the following documents before it:

RR1, the written representations from the tenant dated 20th May, 2009 and 4th June, 2009 and comparable rents.

THE INSPECTION

5. 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 45 years and that the property was renovated approximately 17 years ago when new wiring, gas central heating and a new bathroom were installed. The tenant advised the Committee that there was evidence of settlement there being there being a few internal door lintels and floors off level with some internal cracks.

DESCRIPTION OF THE PROPERTY

6. The property is a second floor flat in a traditional four storey red sandstone tenement building having a tiled roof, built c. 1900. There is a door entry system. The accommodation comprises 2 rooms, dark kitchen and bathroom and there is an internal floor area of 40 sq m or thereby. The aforementioned settlement was noted but is considered minimal and historic. Gas central heating installed 17 years ago. HALL: Central heating radiator. SITTING ROOM: timber framed double glazed windows. KITCHEN: Centrally formed from 2 former bed recesses. Stainless steel sink unit. Modern cupboard fittings. Extractor fan. BATHROOM: Double glazed. Modern low level wc, pedestal wash hand basin and step in shower cubicle. Radiator. BEDROOM: Radiator. Double glazed. Central heating boiler. There are 7 flats and ground floor commercial premises within the building. Modern wiring. Combi boiler. Tidy rear court. The property is conveniently located close to shops and public transportation.

DECISIONS AND REASONS

7. 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.

8. 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”.

9. 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 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.
11. 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. In this case, neither party produced any evidence as to capital values, market rents or registered rents of comparable houses.
13. 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) above.

14. 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 for 1 bedroom properties in the Partick area of Glasgow ranged from £350.00 pcm to £475.00 pcm. The Committee was of the opinion that the appropriate market rent in respect of this property, which had an internal kitchen rather than a dining kitchen and so was at the lower end of the rental price spectrum, was £350.00 pcm.
15. 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. 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.

17. The Committee considered that a number of deductions should be made to take account that any new tenant would require new white goods and carpets. The Committee considered that the appropriate market rent in respect of the property was £4,200.00 per year. The Committee further considered that a deduction was appropriate of £200.00 per year in respect of improvements which would be required to the white goods and carpets.
18. Accordingly, having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was **£4,000.00** 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

Signec.

Steven P Walker
Advocate & Barrister

Chairman
Private Rented Housing Committee

11th September, 2009