



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

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

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G81/702	13 July 2009	Tenant

**ADDRESS OF PREMISES**

Flat 7, Bon Accord Square, Clydebank, G81 1YW

**TENANT**

Ms J Naughton

**NAME AND ADDRESS OF LANDLORD      AGENT**

Clydebank H.A.  
77-83 Kilbowie Road  
Clydebank  
G81 1BL

**DESCRIPTION OF PREMISES**

Ground floor well maintained tenement flat built circa 1990 with double glazing and central heating. Comprising two bedrooms, living room, kitchen and bathroom. Residents parking.

Floor area 68 square metres or thereby

**SERVICES PROVIDED**

Common garden maintenance and common electricity supply

**COMMITTEE MEMBERS**

**CHAIRMAN**  
**SURVEYOR**  
**HOUSING MEMBER**

Mrs E Devanny LLB NP  
Mr R Buchan BSc. FRICS  
Mrs S Brown

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 4800.00 p.a. (Inclusive of services of less than 5%)	15 September 2009	4 August 2009

**A Devanny**

Chairman of Private Rented Housing Committee

15th September 2009

Date



## PRIVATE RENTED HOUSING COMMITTEE

### STATEMENT OF REASONS

In connection with

Inspection held on Tuesday 15 September 2009

of the Property

7 Bon Accord Square, Clydebank G81 1YW  
(hereinafter referred to as "the house")

**Reference RAC/G81/702**

#### INTRODUCTION

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

The Landlords of the house are Clydebank Housing Association, 77-83 Kilbowie Road, Clydebank G81 1BL. The Tenant of the house is Ms. Jeanette Naughton. On 2 June 2009, the Landlords applied to have the annual rent increased to £3074.40. The previous rent was £2640.35 per annum. The Rent Officer determined a rent of £3074.00.00 per annum, with effect from 4 August 2009. The reference to the Private Rented Housing Committee has been submitted by the Tenant.

#### INSPECTION

The Committee inspected the house on the morning of 15 September 2009.

Present at the inspection were the Tenant, Ms. Jeanette Naughton, and the Landlords' representative, Mr. Joe Farrell.

The property is a ground floor flat in a four-storey modern tenement constructed around 1991 and built of concrete block with a roughcast finish. There is a common grassed area to the front of the house with a door leading into the living-room. However, the main door entrance into the flat is to the rear of the property from a common path which serves the flats within the tenement. Adjacent to the common path is a common paved drying area which is used with the occupants of the other eleven flatted properties within the tenement. The main door leads into a narrow hall with two storage cupboards and off the hall on the ground floor is a living-room, dining kitchen, two bedrooms, one with fitted wardrobes, and bathroom with 3-piece white bathroom suite. The property is double glazed with a combination boiler gas central heating system which provides space heating and hot water. There is a central landscaped parking area to the rear of the property and parking was available there at the time of inspection. The kitchen units were installed at the time of construction and white goods in the kitchen have been provided by the Tenant. The floor coverings throughout the property have been provided by the Tenant and she has installed a shower and screen in the bathroom. The Tenant's improvements to the house were disregarded for the purposes of the inspection.

The services provided by the Landlords are common garden maintenance and an electricity supply to the communal areas.

The gross internal floor area of the flat is 68 square metres or thereby.

The house is situated in a residential street with shops and public transport links in close proximity. The property is situated within walking distance of Clydebank College. Parking is on street with available spaces just outside the flat at the time of inspection.

### HEARING AND REPRESENTATIONS

A Hearing before the Committee took place at the house following the inspection. Present at the Hearing was the Tenant, Ms. Jeanette Naughton, and the Landlords' representative, Mr. Joe Farrell.

The Tenant of the house in her representations emphasised that there had been no changes to the property since its construction and she mentioned that whilst external decoration had recently been completed, the garden maintenance works undertaken were of a poor standard. She considered the size of the proposed rent increase to be unfair and unjustifiable. She complained that the close proximity to Clydebank College caused noise, increased traffic and parking difficulties which would most likely escalate given a proposed new housing

scheme for the area. The Tenant indicated that the kitchen units were old and in need of repair, some windows were scratched, and the radiator in the main bedroom was too small for the size of room. Mr. Farrell, for the Landlords, advised the Committee that the Landlords strive to provide affordable housing and that the rents charged are among the lowest in the area. He stated that if the Tenant paid a reduced sum, then other tenants of the Housing Association would need to fund the difference, and that the increase in rent sought was due to inflation and increased management costs. The Landlord's agent indicated that the rent level for a private rented property of a similar type to the house would be at least £100 per month more than the rent being sought by them. He accepted that parking complaints had increased as a result of the close proximity of the house to Clydebank College and that the Landlords had raised this issue with the College authorities.

No representations were made on the issue of scarcity.

### DECISION

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

1. RRI Application for the house, dated 28 May 2009 and received on 2 June 2009.
2. Tenant's letter of appeal dated 6 July 2009.
3. Notification of fair rent appeal from Rent Registration Service for the house dated 9 July 2009.
4. Rent Register Page.
5. Tenant's representations dated 27 July 2009.
6. Landlords' representations dated 7 August 2009.
7. List of registered rent decisions compiled by the Clerk to the Committee relating to:

RAC/G81/632 0/1, 8 Scott Street, Dalmuir, Clydebank G81 4BT

The Committee considered all the written evidence, submissions and representations together with the observations of Committee Members at the inspection.

The Committee was mindful 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.

Section 49(1) of the Rent (Scotland) Act 1984, as amended, which provides that

"The amount to be registered as the rent of any dwelling-house shall include any sums payable by the tenant to the landlord for the use of furniture or for services, or in respect of Council Tax whether or not those sums are separate from the sums payable for the occupation of the dwelling-house or are payable under separate agreements."

The effect is that whatever sum is registered as the rent of the dwellinghouse, that sum includes the service charge and, except where section 49(6) of the 1984 Act applies, the Landlord is not entitled to make a charge beyond the registered rent.

- Section 49(6) of the Rent (Scotland) Act 1984 provides that

"Where.... the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord... the amount to be registered.....as rent may if the .....rent assessment committee are satisfied that the terms as to the variation are reasonable, be entered as an amount variable in accordance with those terms."

- Section 49(2) of the Rent (Scotland) Act 1984 requires that the amount fairly attributable to services should be noted separately on the register; except where that amount is less than 5% of the registered rent (Section 49(3)).

The Committee carefully considered whether there was evidence of scarcity in the rental market. Internet sources produced an extensive list of available properties for rent in the area where the house is located. 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.

None of these methods is regarded as the primary method.

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 house. The Committee's investigations with letting agents and internet sources revealed that the lowest rent sought for a 2 bedrooomed unfurnished flat in the vicinity of the house was £400 per month and this was consistent with the views of the Landlord's representative that a rental sum of at least £370 per month could be attained for the house. The Committee concluded that the market rent for the house including an annual service charge of £63.39 would be £400 per month or £4800 per year.

The Committee cross checked this rent assessment by considering the registered rent comparable given for the flat at 0/1, 8 Scott Street, Dalmuir, Clydebank where a Private Rented Housing Committee made a determination of rent of £4192 per annum in June 2008 for a two-bedrooomed traditional tenement flat without heating and after deduction of the service charges. After adjustment for the provision of heating and the inflationary element, this was consistent with the Committee's rental assessment for the house of £4800pa inclusive of service charges.

Due to lack of evidence of capital values for similar houses in the location of the property at Bon Accord Square, the Committee did not consider that it was appropriate to proceed to calculate a fair rent on an appropriate return based on the capital value of the house.

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

The Committee considered the charges made for services. They noted that a service charge is sought of £63.39 per annum for common garden maintenance and mutual lighting. The Committee considered this amount to be reasonable. No tenancy agreement was submitted and so the Committee had no evidence before them that the lease provided for services to be variable. As this is less than 5% of the rent, in accordance with section 49 (3) of the 1984 Act, the sum is

not noted separately on the register.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the flat is £400 per month, which equates to £4800 per annum (inclusive of services less than 5%).

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

As the Landlords are a Housing Association, Section 60(2) of the Rent (Scotland) Act 1984 applies, and the effective date is the date the Rent Officer's rent was registered, therefore the decision takes effect from the Fourth day of August, Two Thousand and Nine.

# A Devanny

Chairperson,  
15th September 2009 /