

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
RAC/G11/419	1 March 2005	Landlord

ADDRESS OF PREMISES

3/3, 44 White Street, Glasgow, G11 5EA

TENANT

Mr A McArthur

NAME AND ADDRESS OF LANDLORD/AGENT

Partick HA Ltd, 10 Mansefield Street, Glasgow

DESCRIPTION OF PREMISES

Third floor tenement flat C. 1900 with gas central heating, comprising 2 rooms, kitchen and bathroom

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN	Mrs I R Montgomery BA(Hons) NP
PROFESSIONAL MEMBER	Mr G Campbell FRICS
LAY MEMBER	Mr S Campbell

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£2,300.00 per annum	18 May 2006	3 March 2006

I Montgomery

Chairman of the Rent Assessment Committee

Date 18th May 2006

RENT ASSESSMENT COMMITTEE
STATEMENT OF REASONS
2nd and 18th MAY 2006

PROPERTIES

Group 1: -	3/2, 12 White Street, Glasgow, G11 5RT
(2 nd May 2006)	1/1, 75 White Street, Glasgow, G11 5EE
	3/1, 80 White Street, Glasgow G11 5DB
	2/2, 15 Dowanhill Street, Glasgow G11 5QS
	1/1, 19 Dowanhill Street, Glasgow G11 5QR.
Group 2:-	2/1, 4 Lawrie Street, Glasgow G11 5NL
(18 th May 2006)	2/2, 4 Lawrie Street, Glasgow G11 5NL
	3/3, 44 White Street, Glasgow G11 5EA
	3/2, 77 White Street, Glasgow G11 5EE.

INTRODUCTION

1. The Committee comprised Mrs I.R. Montgomery (Chairman), Mr G. Campbell (Surveyor) and Mr S. Campbell. The landlord is Partick Housing Association Ltd., 10 Mansfield Street, Glasgow G11 5QP. This is a registered Housing Association for the purposes of the 1984 Act. The tenants of the five Group 1 properties (in the order as given above) are Mr J. McDonald, Mrs F. Finney, Ms A. Watson, Mrs T. Lee and Mrs S. Crawford respectively. The tenants of the four Group 2 properties (in the order as given above) are Mr B. Swanson, Mrs E. Clark, Mr A. McArthur, and Miss P. McFarlane. This reference to the Rent Assessment Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 in respect of all nine properties arises from dissatisfaction on the part of the landlord.
2. The previous rent for 3/2, 12 White Street, Glasgow was £1,899.96 per annum. The landlord applied for a rent of £2,339.93 per annum. The rent determined by the Rent Officer was £2,200.32 per annum.

3. The previous rent for 1/1, 75 White Street, Glasgow was £1,704.00 per annum. The landlord applied for a rent of £2,191.20 per annum. The rent determined by the Rent Officer was £2,004.36 per annum.
4. The previous rent for 3/1, 80 White Street, Glasgow was £2,049.96 per annum. The landlord applied for a rent of £2,398.44 per annum. The rent determined by the Rent Officer was £2,350.32 per annum.
5. The previous rent for 2/2 15 Dowanhill Street, Glasgow was £2,100.00 per annum. The landlord applied for a rent of £2,516.88 per annum. The rent determined by the Rent Officer was £2,425.32 per annum.
6. The previous rent for 1/1 19 Dowanhill Street, Glasgow was £1,899.96 per annum. The landlord applied for a rent of £2,339.16 per annum. The rent determined by the Rent Officer was £2,200.32 per annum.
7. The previous rent for 2/1 4 Lawrie Street, Glasgow was £1527.00 per annum. The landlord applied for a rent of £1924.68 per annum. The rent determined by the Rent Officer was £1827.36 per annum.
8. The previous rent for 2/2, 4 Lawrie Street, Glasgow was £1950.00 per annum. The landlord applied for a rent of £2398.44 per annum. The rent determined by the Rent Officer was £2150.28 per annum.
9. The previous rent for 3/3, 44 White Street, Glasgow was £1849.92 per annum. The landlord applied for a rent of £2191.20 per annum. The rent determined by the Rent Officer was £2150.28 per annum.
10. The previous rent for 3/2, 77 White Street, Glasgow was £1899.96 per annum. The landlord applied for a rent of £2339.16 per annum. The rent determined by the Rent Officer was £2200.32 per annum.

DESCRIPTION OF THE PROPERTIES

11. On the morning of the 2nd May 2006, the Committee, accompanied by the Clerk, Mr Robert Shea, inspected the five properties in Group 1. On the morning of 18th May 2006, the same Committee, again accompanied by the clerk, inspected the four properties in Group 2. All nine properties are situated within close proximity to one another within an area with good access to shopping and travel facilities. Each property is situated within a four storey traditional sand stone tenement built before 1919. All have tiled roofs. In each case, the stone had been cleaned and appeared to be in a reasonable state of repair. Entry to each building was controlled by a door entry system which was in operation at the date of the inspection. Each dwelling house was wind and watertight on the date of the inspection. Each property had a drying green area to the rear of the building and each back court was tidy and well maintained on the day of inspection.

3/2, 12 White Street, Glasgow, G11 5RT

12. The accommodation extends to a living room, two double bedrooms, a kitchen and bathroom. The living room is of good size and has an attractive triple bay window. The original cornicing has been maintained. There is a large walk-in cupboard within the living room, which affords useful storage space. The main bedroom is a double room of moderate size with a large single window. The second bedroom has a cupboard which houses the boiler. The kitchen is long and very narrow with a single window. The units were provided by the landlord, but appeared to be of some considerable age. The Committee was advised that a new kitchen was due to be fitted. The bathroom was internal and vented. It contained a white bathroom suite consisting of WC, hand basin and bath. There is a small hallway. The property is single glazed throughout and has gas central heating.

1/1, 75 White Street, Glasgow, G11 5EE

13. The accommodation extends to a living room, one double bedroom, a living kitchen and bathroom. The living room is of good size and has an attractive triple bay window. The bedroom is a double room of moderate

size with a large single window. The floor surface is uneven. The kitchen is large and bright with a large single window. The units were provided by the landlord. Some units had been recently replaced and the electrical plugs above the cooker were left insecure with large gaps in the surrounding plaster. Some of the old units had been left on one wall. These could be removed at the request of the tenant if she so wished. The kitchen floor was very uneven and the tenant explained that she was unable to put her table and chairs in the location of her choice because they would move due to the slope. The bathroom was in poor repair and repair work was underway at the time of the inspection. Rot had been discovered in the ceiling and the joists may require to be replaced. The bath was cracked and the hand basin was not firmly affixed to the wall. There is a hallway with a large walk-in cupboard. The property is single glazed throughout and has gas central heating.

3/1, 80 White Street, Glasgow G11 5DB

14. The accommodation extends to a living room, two double bedrooms, a kitchen and bathroom. The living room is of good size and has an attractive triple bay window. There is a large walk-in cupboard within the living room, which affords useful storage space. The main bedroom is a double room of moderate size with a large single window. The second bedroom is also of reasonable size with one window. The kitchen is large and bright but there was an area of damp above the sink which the tenant freely acknowledged she had not reported. The units were provided by the landlord, but appeared to be of some considerable age and were in a shabby condition. The bathroom is long and narrow and the bathroom suite is old but functional. There is a hallway containing a large walk-in storage cupboard. The property is in good decorative order throughout. The property is single glazed throughout and has gas central heating.

2/2 15 Dowanhill Street, Glasgow G11 5QS

15. The accommodation extends to a living room, two double bedrooms, a single bedroom, a kitchen, a bathroom and a second toilet with wash hand basin and WC. The living room is of good size and has two single

windows. The main bedroom is a large double room with a double window. The second bedroom is also a good size and has two windows. The third bedroom is a single room with one large window. The kitchen is square with one large window. The units were provided by the landlord, but are basic. The bathroom is internal and vented. It has a blue bathroom suite consisting of WC, hand basin and bath. The tenant has fitted a shower. There are two hallways and a secondary toilet. The property is single glazed throughout and has gas central heating.

1/1 19 Dowanhill Street, Glasgow G11 5QR

16. The accommodation extends to a living room, two double bedrooms, a kitchen and bathroom. The living room is of good size and has an attractive triple bay window. There is a large walk-in cupboard within the living room, which affords useful storage space. The main bedroom is a large double room with a large double window. The room is unusually shaped as one corner is cut off by a wall leading towards the window. While this is not unattractive it restricts the positioning of furniture. The second bedroom is of reasonable size and has a double window. The kitchen is galley style. The units were provided by the landlord, but appeared to be of some considerable age. The tenant indicated that they had been in place for 22 years. Although old, they remained functional. The bathroom was internal and vented. It contained an avocado bathroom suite consisting of WC, hand basin and bath. The tenant had paid an upgrade supplement to have the suite in avocado as opposed to the standard issue white. There is an L shaped hallway. The property is single glazed throughout and has gas central heating.

2/1 4 Lawrie Street, 2/2 4 Lawrie Street and 3/2 77 White Street.

17. The Committee was unable to gain access to these three properties and accordingly relied upon an external examination of each property and the information provided by the landlord in the RO1 forms. The accommodation at 2/1 4 Lawrie Street extends to a living room, one bedroom, bathroom and a living kitchen. The accommodation at 2/2 4 Lawrie Street extends to a living room, two bedrooms, bathroom and a

dining kitchen. The two properties in Lawrie Street do not have the benefit of central heating. The property at 3/2 77 White Street does have central heating. The accommodation there extends to a living room, 2 double bedrooms, bathroom and a galley kitchen.

3/3 44 White Street, Glasgow G11 5EA

18. The accommodation extends to a living room, one double bedroom, a living kitchen and bathroom. The living room is of good size with a triple bay window. The bedroom is a double room of moderate size with a large single window. There are fitted wardrobes but of a rather dated style. The kitchen is square in shape with a single window. The Formica units were provided by the landlord and are in a reasonable state of repair. The bathroom has a single window and the white bathroom suite was fairly modern and in good repair. There is a hallway with a large walk-in cupboard. The property is single glazed throughout and has gas central heating.

19. The landlords were represented at the inspections by Ms Alison Phillips and Ms Lynn Donnelly.

DOCUMENTATION

20. In addition to the Inspection Reports, case summary sheet and extracts from the Rent Register, the Committee considered:

- a) Form ROI applications;
- b) Letters from Rent Officer dated 27th February 2006;
- c) Written representations from landlord, dated 8th March 2006;
- d) Written response from tenant Mr John MacDonald dated 6th March 2006;
- e) Written representations from tenant Ms Anne Watson dated 15th March 2006;
- f) List of recently registered rent decisions with supporting information sheets.

HEARING

21. The landlord had requested a hearing. Two of the tenants attended the hearing on 2nd May 2006, namely Mrs S. Crawford of 1/1 19 Dowanhill Street, Glasgow G11 5QR, and Ms A Watson of 3/1, 80 White Street, Glasgow G11 5DB. They were not represented. No tenant wished to attend the hearing fixed for 18th May 2006 and Ms Donnelly asked the Committee to regard the submission which was made on 2nd May 2006 as applying to all nine properties.

22. Ms Phillips and Ms Donnelly both attended the hearing on 2nd May 2006. Ms Donnelly addressed the Committee on behalf of the landlords. She submitted that the landlord endeavours to keep the rent figures as low as they can and attempts to achieve parity of rental figures so that tenants pay similar rents for similar properties. She explained that the rents were fixed according to the amenity of the property. She gave examples of other rents that had been registered in respect of similar properties now under consideration. She confirmed that all these potential comparable properties were part of the landlord's own stock. She submitted that there were two properties comparable to 1/1 19 Dowanhill Street, namely 102 Beith Street in respect of which a rent of £2,376 had been registered in January 2005, and 18 Gardner Street where a rent of £2,400 had been registered in December 2005. In relation to 1/1 75 White Street, she submitted that a possible comparable property was 79 White Street where a rent of £2,225 had been registered in November 2005. Another possible comparable was 20 Hayburn Street, where a rent of £2,200 had been registered in January 2005. In relation to 3/1 80 White street, she suggested that a possible comparable was 51 White Street which had been registered over one year ago at £2,400. Ms Donnelly stressed that the landlord sought to keep rents at a reasonable level and expressed the view that rents charged by private landlords in the area were "ridiculous". She urged the Committee to fix the rents at the levels sought by the landlord.

23. Mrs Crawford addressed the Committee and stated that she considered the rent sought by the landlord to be excessive in view of the facilities provided. She advised the Committee that she had had the same kitchen, bathroom and windows for over 20 years. She agreed that the property at 18 Gardner Street was the same size as her property.

24. Ms Watson addressed the Committee briefly to indicate that she was happy to trust the judgment of the RAC.

THE DECISION

25. 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. The Committee are required to assume 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 (section 48(2)). 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. There were no such defects in this particular case, nor was any furniture provided. In reaching its determination, the Committee complied with its duty as set out above.

26. As mentioned above, in terms of section 48(3)(b) of the Rent (Scotland) Act 1984 any improvements made by the tenant (other than in pursuance of the terms of the tenancy) must be disregarded for the purposes of determining a fair rent. The purpose of this is obviously to prevent the landlord being able to increase the rent to reflect improvements to the

property which the tenant himself or herself has made. The landlord is, however, entitled to benefit from improvements he or she has made.

27. The Committee considered carefully all the evidence presented, together with the observations made by the Committee members at the inspections. In particular, the Committee considered carefully which of the alternative methods of ascertaining a fair rent was most appropriate in this case. There are three main guidelines normally used in the calculation of a fair rent under the 1984 Act. The first method is to first take a market rent and then discount for any scarcity element and make any appropriate disregards. The second method is to compare registered rents for other similar protected tenancy properties. The third is to ascertain what would be a fair return to the landlord on the capital value of his house. No method is, as a matter of law, "primary". Which method should be adopted is a matter for the Committee to determine in each case.

28. 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 Committee had no specific evidence relative to market value rents in the area, other than general anecdotal evidence of rents which Ms Donnelly freely stated she considered to be "ridiculous". None of the parties present addressed the Committee on the complex issue of scarcity. No written submission was lodged on this issue. In the absence of specific, reliable evidence of market rental levels in the area, the Committee concluded that the market value approach was not the best option in this case. The capital value method is the method least favoured as it can produce inflated and unreliable results in times of high capital values. The Committee did, however, have a considerable amount of evidence as to registered rents for other similar protected tenancy properties. In the particular circumstances of this case, the Committee was satisfied that the best method to use was that of comparing registered rents for other similar protected tenancy properties and making adjustments to account for any

differentiating factors and the passage of time if appropriate. The Committee accordingly proceeded on this basis.

29. The Committee carefully considered the evidence before it of other registered rents. Despite the similarity of the properties in terms of construction and general location, a range of rental figures was shown, as can be expected given that the advantages and disadvantages of individual properties will affect a valuation. However, taking a general view, the Committee was satisfied that a reasonable level of consistency emerged from the material available to the Committee. The properties now under consideration were all single glazed and had been improved to a limited extent only. All but two have central heating. Having weighed up all the available evidence, the Committee concluded that a base figure of £2,300 was fair for a tenant to pay and fair for a landlord to receive for a basic two room, kitchen and bathroom property with central heating in the general condition of these properties. The Committee then considered the individual two room properties against this base line.
30. The Committee considered the property at 1/1 75 White Street. There were various defects in this property and the tribunal considered that deductions to reflect these defects were necessary. The bathroom had rot in the ceiling, a loose washbasin, and a cracked bath. This property, however, did have the benefit of a large kitchen. The Committee accordingly considered that a fair rent of £2,220 was appropriate for this property in the condition as seen on the day of inspection.
31. The Committee considered the property at 2/1 4 Lawrie Street. This property is described as having a large kitchen but does not have central heating. The Committee accordingly considered that a fair rent of £2,170 was appropriate for this property on the basis of the evidence available to the Committee.
32. The Committee considered the property at 3/3 44 White Street. This property has the benefit of central heating and a traditional kitchen. The

Committee accordingly considered that a fair rent of £2,300 was appropriate for this property in the condition as seen on the day of inspection.

33. The Committee considered the properties at 3/2 12 White Street, 3/2 77 White Street, 3/1 80 White Street, 1/1 19 Dowanhill Street and 2/2 4 Lawrie Street. All of these properties had 3 rooms, kitchen and bathroom. Based on the evidence of comparable registered rents, the Committee considered that the base line figure for these properties would be £2,450. However, again the individual advantages and disadvantages of each property must be taken into account. The property at 3/2, 12 White Street has a galley kitchen which the Committee regarded as being smaller and less desirable than a dining or living kitchen. In relation to 3/2, 12 White Street, the Committee considered that the fair rent for this property was considered to be £2,430 per annum. The property at 3/2, 77 White Street also had a galley kitchen and was similar in all respects to 3/2 12 White Street. The Committee considered that the fair rent for this property was also £2,430 per annum. In relation to 3/1, 80 White Street, the condition of the kitchen was old and shabby and the Committee considered that this fact should be reflected in the valuation. However, the property has a dining kitchen. The fair rent for this property was considered to be £2,420 per annum. The property at 1/1, 19 Dowanhill Street also had an old and shabby galley kitchen. The tribunal considered that the tenant was justified in complaining at the age of her kitchen, which is not due for replacement until 2007. This tenant also has problems with squeaky floorboards in the hallway which further detracted from the amenity of her property. When these factors were taken into account, the Committee considered that a fair rent for the property would be £2,355 per annum. The property at 2/2 4 Lawrie Street was described as having a dining kitchen but did not have the benefit of central heating. The Committee considered that a fair rent for this property was £2,320 per annum.

34. The remaining property at 2/2 15 Dowanhill Street has 4 rooms, a kitchen and bathroom and has the advantage of having an additional toilet with

WC and wash hand basin. The Committee adjusted to take account of these factors and concluded that a fair rent for this property was £2,635 per annum.

35. 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.

36. Having taken all relevant factors into account, the Committee determined Fair Rents for the nine properties as follows:-

3/2, 12 White Street, Glasgow, G11 5RT	£2,430 per annum
3/3, 44 White Street, Glasgow, G11 5EA	£2,300 per annum
1/1, 75 White Street, Glasgow, G11 5EE	£2,220 per annum
3/2, 77 White Street, Glasgow, G11 5EE	£2,430 per annum
3/1, 80 White Street, Glasgow G11 5DB	£2,420 per annum
2/2 15 Dowanhill Street, Glasgow G11 5QS	£2,635 per annum
1/1 19 Dowanhill Street, Glasgow G11 5QR	£2,355 per annum
2/1, 4 Lawrie Street, Glasgow, G11 5NL	£2,170 per annum
2/2, 4 Lawrie Street, Glasgow, G11 5NL	£2,320 per annum.

37. In reaching its decision, the Committee had regard to all the circumstances required to be taken into account in terms of sections 48 and 49 of the Rent (Scotland) Act 1984.

38. In accordance with section 60 of the 1984 Act, the registration takes effect from the date when the rent was registered by the rent officer, namely 3rd March 2006.

Signed..  (Chairman)

Date : - 18th May 2006.