

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.	OBJECTION RECEIVED	OBJECTION
RAC/G42/451	22 September 2006	Tenant

ADDRESS OF PREMISES

Flat 0/2, 150 Butterbiggins Road, Glasgow, G42 7AF

TENANT

Ms M Cook

NAME AND ADDRESS OF LANDLORD

Govanhill H.A.
Forsyth House
151 Coplaw Street
Glasgow
G42 7DE

DESCRIPTION OF PREMISES

Ground floor tenement flat circa 1900 with partial double glazing comprising three rooms, living kitchen and bathroom.

SERVICES PROVIDED

Door entry maintenance, backcourt maintenance and central area maintenance.

COMMITTEE MEMBERS

CHAIRMAN	Mrs I Montgomery BA (Hons) NP
PROFESSIONAL MEMBER	Mr A English FRICS
LAY MEMBER	Mr T Keenan

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 2550.81 p.a. (Incl. of services of less than 5%)	15 November 2006	2 September 2006

I Montgomery

Chairman of the Rent Assessment Committee

15th November 2006
Date

RENT ASSESSMENT COMMITTEE
STATEMENT OF REASONS
INSPECTION: 15th NOVEMBER 2006

PROPERTY: - 0/2, 150 BUTTERBIGGINS ROAD, GLASGOW G42 7AF.

INTRODUCTION

1. The Committee comprised Mrs I.R. Montgomery (Chairman), Mr A. English (Surveyor) and Mr T. Keenan. The landlord is Govanhill Housing Association Ltd, 151 Coplaw Street, Glasgow G42 7DE. The tenant is Mrs M Cook. This reference to the Rent Assessment Committee for the determination of a Fair Rent under the Rent (Scotland) Act 1984 in respect of the tenement flat situated at 0/2, 150 Butterbiggins Road, Glasgow G42 7AF arises from dissatisfaction on the part of the tenant.
2. The previous rent was £2,268.71 per annum. The landlord applied for a rent of £2,550.81 per annum. The rent determined by the Rent Officer was £2,603.94 per annum.

DESCRIPTION OF THE PROPERTY

3. On the morning of the 15th November 2006, the Committee, accompanied by the clerk, inspected the house at 0/2, 150 Butterbiggins Road, Glasgow G42 7AF. This property is situated in a mixed residential/commercial area, across the road from Larkfield bus garage. There is good access to shopping and travel facilities. It is a traditional four storey tenement building constructed of red sandstone built about 1900. The roof is tiled. There is a door entry system at the front entrance to the building. The tiled close was tidy, clean and well maintained.
4. The dwelling house was wind and watertight on the date of the inspection. The property is double-glazed to the front only and has no central heating. The accommodation extends to a large living room,

two double bedrooms, a living kitchen and a bathroom. The living room is bright and has the benefit of two double-glazed windows. The main bedroom is also large and bright with two double-glazed windows. The second bedroom is smaller but is still of good size. It has a single glazed window. The large kitchen is fitted with modern units supplied by the landlord about six or seven years ago. It has a single window. The tenant uses this room as a sitting room. The bathroom is ventilated by a window and the landlord has supplied the WC, bath and wash hand basin, all of which were modern and in good condition. There is a hallway with a large walk-in cupboard. The property was in fair decorative order throughout.

5. There is a back court and large central garden area to the rear of the property. These areas were reasonably tidy on the day of the inspection, marred only by the presence of some weeds, some items awaiting collection as refuse and some graffiti on the rear entrance door. Despite these factors, the back court and garden area were attractive recreation areas.
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 considered:
 - Form RRI application;
 - Letter from tenant received 22nd September 2006;
 - Letter from Rent Officer dated 20th September 2006;
 - Written representations from the landlord;
 - Written representations from the tenant.
8. The committee was provided by the clerk with a list of recently registered rent decisions, containing details of three properties, which were potentially comparable to the property under consideration.

HEARING

9. As neither party had requested a hearing, no hearing was held.

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 alternative 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. In this case, both the landlord and the tenant were in agreement that the rent fixed by the Rent Officer was too high. The written representations lodged by the landlords specifically state "*The Association is of the opinion that the rent registered by the Rent Officer is too high*". The tenant stated that she considered the rent asked by the landlords to be excessive but that she would not have appealed against it had the rent not been further increased by the Rent Officer. Neither the landlord nor any of the tenants offered any submission on the question of the existence or non-existence of scarcity. Neither party produced any evidence as to capital values or market rents passing in the area.
13. 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. The Committee considered that it did not have enough evidence in this case to proceed by way of either the market rental less scarcity and allowable deductions approach or the capital value approach. In the particular circumstances of this case, the Committee was satisfied that the best evidence available was that of registered rents actually passing in respect of comparable houses in the area. Both the landlord and the tenant had had notice of the clerk's list of potentially comparable properties and neither party had challenged it. The Committee considered that Calder Street was busier and generally less desirable than Butterbiggins Road and discounted the flat situated within 165 Calder Street on the basis that it was not considered to be a suitable comparable. The remaining two properties were considered to be generally comparable, provided a deduction was made to take account of the fact that the property in Hollybrook Street had the benefit of central heating. Even making this deduction, however, brought out rental figures in excess of the figure set by the Rent Officer. The landlord had specifically stated that that figure was too high in relation

to this particular property. The landlord must be assumed to have knowledge of its own property and, as a Housing Association, good knowledge of other rents passing in the locality. That being so, the Committee accepted the evidence of the landlord and concluded that a fair rent in this case was the rental figure sought by the landlord, i.e. £2,550.81. That figure is a figure that is fair for the tenant to pay and which the landlord accepts is a fair rent to receive in relation to this particular property. There was no evidence in this case which would have justified the Committee in fixing a rental figure below the figure sought by the landlord.

14. In Curtis V London RAC (1999) QB 99, Auld LJ stated that "if the use of registered rent comparables is under consideration, it is necessary to assess their current validity and applicability". The Committee followed that approach here.

15. 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 services are provided in relation to backcourt maintenance, door entry and central area maintenance. These services amount to £38.94 which is less than 5% of the registered rent. That being so, the cost of the provision of these services does not require to be noted separately on the register.

16. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £2,550.81 per annum. In reaching that 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. As the landlord is a Housing Association, subsection 60(2) of the 1984 Act applies and the effective date is the date on which the rent determined by the Rent Officer was registered, namely 2nd September 2006.

Signed.  (Chairman) Date....18th November 2006