

RENT ASSESSMENT PANEL FOR SCOTLAND

RENT (SCOTLAND) ACT 1984

NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE

REFERENCE NO.

RAC/EH7/465

OBJECTION RECEIVED

17 January 2007

OBJECTION

Tenant

ADDRESS OF PREMISES

7/1 Abbey Court, Abbey Street, Edinburgh, EH7 5XN

TENANT

Mr T & Mrs M Killin

NAME AND ADDRESS OF LANDLORD

Margaret Blackwood H.A., Craigievar House, 77 Craigmount Brae, Edinburgh, EH12 8XF

DESCRIPTION OF PREMISES

Purpose built ground floor flat built in 1982 and modified for disabled living with double glazing and gas central heating comprising living room, two bedrooms, kitchen and bathroom. Private parking provided.

SERVICES PROVIDED

See schedule in Statement of Reasons.

COMMITTEE MEMBERS**CHAIRMAN**

Mr S Walker LLB(Hons)Dip LP ACI Arb.

PROFESSIONAL MEMBER

Mr R Buchan BSc FRICS

LAY MEMBER

Mr J Blackwood

FAIR RENT

£5876.76 per annum

DATE OF DECISION

28 March 2007

**EFFECTIVE
DATE**

4 January 2007

(Incl. of services of £776.76 variable)

S Walker

Chairman of the Rent Assessment Committee

3rd April, 2007

Date

RENT ASSESSMENT COMMITTEE

STATEMENT OF REASONS

PROPERTIES:

7/1 & 9 Abbey Court, Abbey Street, Edinburgh

RENT ASSESSMENT COMMITTEE

HELD ON: 28 MARCH, 2007

PROPERTIES: 7/1 & 9 Abbey Court, Abbey Street, Edinburgh

STATEMENT OF REASONS

INTRODUCTION

This is a reference to the Rent Assessment Committee for the determination of a fair rent under the Rent (Scotland) Act 1984 by the landlord, Margaret Blackwood Housing Association, Craigievar House, 77 Craigmount Brae, Edinburgh in relation to properties at 7/1 ("the first dwellinghouse") & 9 ("the second dwellinghouse") Abbey Court, Abbey Street, Edinburgh. The tenants of the first dwellinghouse are Mr & Mrs T Killin and the tenants of the second dwellinghouse are Mr & Mrs C Forrester. The original rent paid by Mr. & Mrs. Killin was £2,940.00 per annum. The original rent paid by Mr. & Mrs. Forrester was £3,168.00 per annum. The landlord applied for rents of £4,416.00 per annum for each property. The Rent Officer determined rents of £4,548.00 per annum for each property.

The landlord did not attend the inspections. Mr & Mrs Killin and Mrs Forrester were present at the inspections of their dwelling houses.

The landlord's representatives Mrs. Lynne Dougall and Mr. Andy Johnston were present at the hearing. Mr Killin and Mrs Forrester attended the Hearing.

The Committee comprised;

Chairman	Mr. S Walker
Surveyor	Mr R Buchan
Lay Member	Mr J Blackwood

THE DOCUMENTATION

The Committee had the following documents before it:

The First Dwellinghouse

RR1 Application, Tenant appeal letter, rent register pages, tenancy agreement. The Committee also had details of four comparable properties.

The Second Dwellinghouse

RR1 Application, Tenant appeal letter, rent register pages, tenancy agreement, tenant's representations. The Committee also had details of four comparable properties.

THE INSPECTION

Mr Robert Shea, Clerk to the Rent Assessment Committee, introduced the Committee to the tenants.

DESCRIPTION OF THE DWELLINGHOUSES

The first dwellinghouse

Purpose built ground floor flat built in 1982 and modified for disabled living with double glazing and gas central heating comprising living room, two bedrooms, kitchen and bathroom. Private parking provided. The property appeared to be well maintained and in a good condition.

The second dwellinghouse

Purpose built first floor flat with own ground floor access built in 1982 with double glazing and gas central heating comprising living room, three bedrooms, kitchen and dark bathroom. Private parking provided. There was some water damage to the kitchen ceiling which was currently plastered and in course of being repaired. Subject to the on-going repair, the property appeared to be well maintained and in a good condition.

THE HEARING

The chairman opened the hearing by introducing the Committee. The chairman then asked the landlord's representatives if they wished to address the Committee. Mrs. Lynne Dougall said that she would. She advised the Committee of the detail of each service charge each tenant was currently paying. Currently £69.96 per month in respect of the first dwellinghouse and £47.00 per month in respect of the second dwellinghouse. SEE SERVICE CHARGE SCHEDULE ATTACHED. She further advised the Committee that the landlord was seeking a rent increase (incl the service charge) to £4,416.00 in respect of each property.

The chairman then asked Mr. Killin if he would like to address the Committee. He confirmed he wished to. His main concern appeared in relation to the amount of the service charge he paid and the amount of services he received in return. In particular, the service charges in relation to the oven, which he has been paying since 1982, and which was never fixed and only replaced some 4 years ago.

The chairman then asked Mrs. Forrester if she would like to address the Committee. She confirmed she wished to. Her main concern appeared in relation to the amount of the service charge she paid and the amount of services she received in return. She advised the Committee that a neighbour of hers was only paying £16 per month and she was paying £47. She asked Mrs. Dougall the reason for the different charges. Mrs. Dougall advised that all services charges were in the process of being standardised.

DECISIONS AND REASONS

Section 48 of that Act provides that:

(1) In determining for the purposes of this part of the Act what rent is or would be a fair rent under a regulated tenancy of a dwellinghouse, it shall be the duty of the rent officer or, as the case may be, of the rent assessment 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 dwellinghouse 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 dwellinghouses in the locality on the terms (other than those relating to the rent) of the regulated tenancy is not substantially greater than the number of such dwellinghouses in the locality which are available for letting on such terms.

In terms of section 48 of the Rent (Scotland) Act 1984, the Committee is required to fix a rent that is or would be a fair rent under a regulated tenancy.

The Committee had two aspects to consider. Firstly, what is a fair rent in respect of each property, and secondly, is the service charge reasonable given the services provided. The Committee noted that these properties were sheltered housing with rents well below a market rent. The Committee is bound to apply section 48 *supra* and to determine a fair rent. There are three accepted methods of determining a fair rent. 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.

No party had provided the Committee with specific information or evidence about rents (either in the open market or under registered rents terms) which could be used by the Committee as comparables.

The Committee considered comparable properties available to let at open market rents in publications such as The Property Guide and the ESPC Newsletter, in particular, 3 (GFR) Abbey Street, 3 bedrooms, £750 per month, 3 (1F1) Abbey Street, 2 bedrooms, £525 per month, Royal Park Terrace, 3 bedrooms, £575-£650 per month, 16 East Worton Place, 2 bedrooms, £590 per month. For the Committee to establish a fair rent it was appropriate to compare open market rents and thereafter review what might be an appropriate deduction for scarcity and to make any other appropriate deductions (if any). The Committee considered that there was no scarcity currently in Edinburgh and

that the best method to determine a fair rent in respect of each property was method (b) *supra*, due to the large number of comparable properties available for rental. From its own experience, knowledge and from the information available in the Property Guide, the ESPC Newsletter and the Departments of local Estate Agents, the Committee was of the opinion that the market rent for a two bedroom apartment was approximately £525 per month and a three bedroom apartment was approximately £625 per month.

The first dwellinghouse

The Committee considered that a deduction should be made.

Thus:

Market rent (per month)	£525
Less allowance – disabled modifications*	£100
	£425
Add Service Charge**	£64.73
Total	<u>£489.73</u>

*The Committee was of the view that the disabled modifications to the kitchen (low units/appliances) and bathroom (closoomat etc) would reduce the market rent by approximately £100 per month. The Committee was of the view that a new kitchen and bathroom would cost approximately £12,000 and this capital cost written off over 10 years amounts to £1,200 per year and £100 per month.

**See Service Charge Schedule Attached.

Taking into account all the circumstances, which the Committee is required to take into account, the Committee concluded that a fair rent for the first dwellinghouse would be £5,876.76 per year. This includes services of £776.76 variable.

Accordingly, the Committee determined in respect of the first dwellinghouse:-

- 1. 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 to the value of £776.76 per year are provided. These services are contractual and variable. Having taken all**

relevant factors into account, the Committee determined that a Fair Rent for the property was £5,876.76 per year.

2. 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.

The second dwellinghouse

The Committee's view is as follows.

Thus:

Market rent (per month)	£625
Add Service Charge**	£47
Total	<u>£672</u>

**See Service Charge Schedule Attached.

Taking into account all the circumstances, which the Committee is required to take into account, the Committee concluded that a fair rent for the second dwellinghouse would be £8,064.00 per year. This includes services of £564.00 variable.

Accordingly, the Committee determined in respect of the second dwellinghouse:-

1. 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 to the value of £564.00 per year are provided. These services are contractual and variable. Having taken all relevant factors into account, the Committee determined that a Fair Rent for the property was £8,064.00 per year.

- 2. 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.**

S Walker

Steven P Walker LLB(Hons) Dip LP ACI Arb Advocate

**Chairman
Rent Assessment Committee**

11th May, 2007

Service Charge Schedule

7/1 & 9 Abbey Court, Abbey Street, Edinburgh

The First Dwellinghouse (£ per month)

1.	Communal Cleaning	£14.08
2.	Communal Heating/Lighting	£7.16
3.	Maintenance of Laundry Equip	£0.58
4.	Maintenance of Garden	£9.25
5.	Oven Maintenance	£3.14
6.	Fire Equip	£4.17
7.	Automatic Door	£2.85
8.	Door Entry to flat 7/1*	£4.27
9.	Closomat	£9.40
10.	Lift	£2.03
11.	Replacement Laundry Equip	£2.19
12.	Communal Furniture	£2.54
13.	Oven Depreciation	£2.30

Plus admin charge of 14% less surplus **£69.00**

*The Committee was of the view that the door entry system is part of the rental and is not a service. The Committee has reduced the service charge by this amount.

The Second Dwellinghouse (£ per month)

1.	Communal Cleaning	£14.08
2.	Communal Heating/Lighting	£7.16
3.	Maintenance of Laundry Equip	£0.58
4.	Maintenance of Garden	£9.25
5.	Fire Equip	£4.17
6.	Automatic Door	£2.85
7.	Lift	£2.03
8.	Replacement Laundry Equip	£2.19
9.	Communal Furniture	£2.54
10.	Oven Depreciation	£2.30

Plus admin charge of 14% less surplus **£47.00**