

Housing and Property Chamber

First-tier Tribunal for Scotland



**Decision
of the**

First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') issued under section 26 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

Chamber Ref: FTS/HPC/RR/23/4274

Property: Flat 2/2, 364 Govanhill Street, Glasgow G42 7HT ('the Property')

The Parties:

Govanhill Housing Association, Samaritan House, 79 Coplaw Street, Glasgow G42 7JG ('the Landlords')

Ms Linda Doran, Flat 2/2, 364 Govanhill Street, Glasgow G42 7HT ('the Tenant')

Tribunal members:

G Clark (Legal Member/Chairperson) and M Links (Ordinary/surveyor Member).

1. BACKGROUND

The tenancy is a statutory protected tenancy in terms of the Rent (Scotland) Act 1984. The current rent is £4,467.33 per annum. The Landlords applied for the rent to be increased to £4,848.36 per annum. The Rent Officer registered a rent of £4,848.36 per annum, to include an assumed service charge of £60.84, with effect from 17 December 2023. The Tenant referred the determination to the First-tier Tribunal.

2. THE INSPECTION

The Tribunal inspected the Property on the morning of 28 March 2024. The Tenant was present at the inspection. The Landlords were neither present nor represented. The Property is a top flat in a 3-storey modern block (circa 1987), of traditional construction with a cavity brick external finish. The roof is pitched and tiled and the Property has recently-installed upvc double-glazed windows. There is a door entry system.

The accommodation comprises an entrance hall, living room, double bedroom, kitchen and bathroom. Space heating and hot water are provided by a gas central heating system. The internal floor area is approximately 38 square metres, to include bay windows in the living room and bedroom. There is laminate flooring in the living room and hallway, vinyl flooring in the bathroom, tiled flooring in the kitchen and fitted carpet in the bedroom. The Property is in good decorative order.

The Tenant provided the carpets and floor coverings throughout the Property and the white goods.

There is a paved back court with a drying area and bin storage area, both in reasonable order.

On-street permit parking is available outside the Property, which is situated close to good bus links to the city centre. The Landlords provide stair cleaning services and back court maintenance, each at an annual cost to the Tenant of £130.56, to include maintenance of the door entry system. The Tenant advised at the Inspection that the charge for stair cleaning had only recently been imposed. Prior to that, the tenants dealt with stair cleaning themselves. The cost of back green and door entry maintenance had also recently increased to £130.56 per annum.

3. THE HEARING

The Tenant did not attend the hearing and was not represented. The Landlords were not present or represented.

4. THE DECISION

The Tribunal had the following documents before it:-

- (i) a copy of form RR1, the Landlords' application for registration of the rent.
- (ii) a copy of the Rent Officer's determination.
- (iii) a copy of the Tenant's email of 28 November 2023 objecting to the rent registered by the Rent Officer.

The Tribunal considered these documents and rental evidence.

The Tribunal Members were mindful of the terms of section 48(1) of The Rent (Scotland) Act 1984, which requires the Tribunal 'to 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'. Also, Section 48(2) requires them 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 which are available to let on such terms.'

The Tribunal recognised that the three methods of assessing the rent in Scotland are (1) determining the fair rent by reference to comparable registered rents in the area. (2) determining the fair rent by reference to market rents of comparable properties allowing for appropriate deductions for scarcity and (3) determining the fair rent by reference to the anticipated annual return based on the capital value of the property. They acknowledged that none of these methods is the primary method. The task of determining a fair rent is a composite task which takes account of these three methods. The appropriate method depends on the facts and circumstances of each case. The Tribunal also gave consideration to the observations of the Lord President in *Western Heritable Investment Co Ltd v Hunter* (2004) and also the case of *Wright v Elderpark Housing Association* (2017) which requires the Tribunal to proceed on the best available evidence and use the other evidence as a cross check, where possible.

The Tribunal considered the evidence of recent registered rents in the Fair Rent Register.

The Tribunal identified six properties in the area with registered fair rents.

- (i) 2/1, 372 Govanhill Street, Glasgow G42 7HT, erected at the same time as the Property. Living room, bedroom, kitchen/diner and shower room. Full gas central heating. Rent £4,968.36 (service charge element £60.84), effective 17 December 2023.
- (ii) 2/1, 89 Govanhill Street, Glasgow G42 7HJ. Modern building. Living room, kitchenette and bathroom. Full central heating. Rent £4,876.79 (service charge element £59.04), effective 26 June 2022.
- (iii) 1/2, 89 Govanhill Street, Glasgow G42 7HJ. Accommodation and rent as No (ii) above.

- (iv) 1/1,152 Coplaw Street, Glasgow G42 7DD. Traditional tenement. Living room, bedroom, kitchen/diner and bathroom. Full central heating. Rent £5,042.77 (service charge element £82.80), effective 3 July 2022.
- (v) 1/1, 179 Kingarth Street, Glasgow G42 7JT. Traditional tenement. Living room, bedroom, kitchen/diner and bathroom. Full central heating Rent £4,907.52 (no service charge), effective 29 October 2023.
- (vi) 3/1, 18 Langside Road, Glasgow G42 7AG. Traditional tenement. Living room. Bedroom, kitchenette and bathroom. Full central heating. Rent £4,848.36 (service charge element £60.64), effective 4 November 2023.

The Tribunal also considered the evidence of four open market rents, all advertised by Rightmove.

- (i) 1/1, 327 Victoria Road, Glasgow G42 7SA. Living room, bedroom, dining kitchen and bathroom. Gas central heating. Double glazing. Unfurnished. Asking rent £900 per month. Let agreed.
- (ii) Niddrie Road, Glasgow G42. Living room, bedroom, kitchen and bathroom. Furnished. Asking rent £770/month.
- (iii) Calder Street, Glasgow. Living room, bedroom, kitchen and bathroom. Gas central heating. Double glazing. Asking rent £895/month. Let agreed.
- (iv) Govanhill Street, Glasgow G42 7LD. Second floor flat. Living room, bedroom, kitchen and bathroom. Gas central heating Asking rent £750/month.

The Tribunal recognised that properties let on the open market will normally have fully fitted kitchens, cooker, carpets and floorcoverings provided by the landlord and that it was inevitable that rents for such properties would be significantly higher than could be expected for the present Property, where white goods and floorcoverings were not provided.

Scarcity

As already noted, when the Tribunal fix a fair rent they must do so on an assumption that the number of persons seeking to become tenants of similar properties in the locality of the Property is not substantially higher than the number of similar dwelling houses which are available for lease. The Tribunal was satisfied from the evidence

before it that there was a reasonable balance between supply and demand in the area and that scarcity was not, therefore, an element which affected the rental levels.

The Tribunal considered if it was appropriate to use a return on the capital valuation of the Property.

The Parties had not provided any evidence of capital valuations of the Property. The Tribunal were mindful that the capital valuation method has been described as notoriously unreliable 'normally to be used only as a last resort' (Western Heritable Investment Co Ltd v Husband 1983 SC (HL) 60, 73). Given the strong evidence of comparable fair rents and market rents and the absence of evidence of capital valuations the Tribunal determined that it was appropriate to proceed to assess the fair rent of the Property without using the capital valuation method.

The Tribunal are mindful that fixing the rent is a composite task and consequently after consideration of all these factors the Tribunal determined that there is sufficient evidence to support the rent level sought by the Landlords and saw no reason to disturb the determination of the Rent Officer. Accordingly, the Tribunal decided that a fair rent for the Property is £4,848.36 per annum. The Tribunal found the registered rent for Flat 2/1, 372 Govanhill Street to be the best comparison.

In reaching this decision the Tribunal have had regard to all the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.

This decision takes effect from 17 December 2023.

G Clark

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Chairperson

28 March 2024

