

Housing and Property Chamber
First-tier Tribunal for Scotland



Housing (Scotland) Act 1988

Non-determination for Short Assured Tenancy

REFERENCE NO.

FTS/HPC/RS/18/3043

APPLICATION RECEIVED

12 November 2018

ADDRESS OF PREMISES

3/2 8 Leyden Court, Glasgow, G20 9LY

TENANT

Mr Harlan John McGlinchey

NAME AND ADDRESS OF LANDLORD

Picture Living Investments LP
c/o Touchstone, 2 Crescent Office Park, Clerks Way,
Bath, BA2 2AF

AGENT

Touchstone
2 Crescent Office Park, Clarks Way,
Bath, BA2 2AF

RENTAL PERIOD

12 months and monthly thereafter

DATE TENANCY COMMENCED

1 September 2016

DESCRIPTION OF PREMISES

The property comprises a top floor flat (3/2) in a four storey block containing eight flats in total, constructed about 20 years ago. The outer walls are 300mm cavity brick construction with a pitched and tiled roof. Windows are double glazed in timber frames. The accommodation comprises entrance hall, living room, 2 bedrooms, kitchen and bathroom/wc. The gross internal floor area is 80 sq. mts. or thereby

SERVICES PROVIDED

None

TRIBUNAL MEMBERS

CHAIRPERSON
ORDINARY MEMBER (SURVEYOR)

David Preston
Mike Links

PRESENT RENT

£6,600.00

The tribunal did not make a determination when they considered the matter on 5 February 2019.

Remarks

Section 34(3)(b) of the Housing (Scotland) Act 1988 applies

Mr David Preston

..... Chairman

6 February 2019

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Reasons

Under Section 34 of the Housing (Scotland) Act

In connection with the Property

Flat 3/2, 8 Leyden Court, Glasgow G20 9LY

Chamber Ref: FTS/HPC/RS/18/3043

The Parties: –

Mr Harlan John McGlinchey, residing at the property (“the tenant”) and Picture Living Investments LP c/o Touchstone, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF (the landlords)

Tribunal Members:

David Preston (Legal Member) and Mike Links, Surveyor (Ordinary Member)

Background:

1. This is an application dated 23 October 2018 by the tenant to the First-tier Tribunal for Scotland Housing and Property Chamber under Section 34 (1) of the Housing (Scotland) Act 1988 (“the Act”) in respect of the property. The tenancy is a Short Assured Tenancy for a period of 12 months from 1 September 2016 and from month to month thereafter.
2. In the application tenant complained that: there had been a previous increase by £25 per month in October 2017; no improvements or repairs had been carried out during the tenancy; no further action had been taken since the pending repairs had been brought to the landlords’ attention; there had been a number of serious crimes committed within 200 yards of the property.

3. The tenant had submitted written representations along with the application and in response to the Response Form on 11 January 2019. The landlords had submitted written representations on 11 January 2019.

Inspection:

4. The tribunal carried out an inspection of the property on the morning of 5 February 2019. The tenant was present throughout the inspection. The landlords were neither present nor represented.
5. The property is a third floor flat in a four storey tenement at 8, Leyden Court, Glasgow, situated in the Maryhill district and was constructed around 20 years ago. It is conveniently situated for amenities and public transport.
6. The property comprises: entrance hall with storage cupboard off; living room; two bedrooms; kitchen and bathroom. The tribunal noted that the gross floor area of the property was 80 square metres or thereby.
7. Internally the property is generally in reasonable condition although there appeared to be a high level of condensation internally on the windows. The tenant reported that the property was unfurnished but that the fridge, washing machine, floor coverings and oven/cooker were included in the tenancy. Heating was by way of electric storage heaters throughout. The tribunal noted that there were smoke and heat detectors appropriately installed.

Hearing:

8. The hearing took place within the Glasgow Tribunals Centre, York Street, Glasgow. The tenant was present, and the landlords were neither present nor represented.
9. The tribunal had the application and written representations from the parties before it. In addition, the tribunal had identified a number of flats on the market for let in the locality. A copy of the list of these comparable flats had been sent to the parties who were informed that the tribunal may make reference to these properties in its deliberations. The tenant confirmed that he had received the copy list. Neither party had produced their own list of comparable properties, although the landlords indicated in their written representations that they had recently reserved a 2 x bedroomed property in the same block for £560 per month.
10. The chairman pointed out to the tenant that the purpose of this application was related to the level of rent and that issues regarding the state of repair could not be dealt with at the hearing. He advised that the tenant would

require to make separate application in this regard. Similarly, the question of criminal activity in the vicinity of the flat was not a matter which could bear upon the level of rent to be determined.

11. The comparable properties were all 2 bedroom flats situated within modern blocks and comprised:

Address	Furnished/ unfurnished	Floor	Rent (pcm)
Leyden Ct	furnished	Ground	£560
Sandbank Ct	unfurnished	Top	£550
Callander St	unfurnished	Ground	£595
Kelvindale Gdns	unfurnished	2nd	£595
Grovepark St	furnished	Ground	£675
Glenfarg St	furnished	1st	£675
Grovepark Gdns	furnished	1st	£675
North Woodside Rd	Partly furnished	2nd	£695
Maryhill Rd	furnished	Ground	£575
Leyden Ct	furnished	2nd	£575

12. The tribunal noted the tenant's representations but considered that in general they were not relevant considerations in assessing the market rent for the property but may be the subject of an application to the tribunal under the Housing (Scotland) Act 2006.

Decision and Reasons:

13. The tribunal considered all the documents before it as well as the representations from the tenant.

14. The tribunal is bound to fix a market rent for the property by applying the terms of the 1988 Act. The tribunal is required to determine the rent which, subject to certain assumptions as defined in the Act, it considers the property might reasonably be expected to achieve if it was on the open market by a willing landlord under an assured tenancy. There is no single preferred method of fixing such a rent and the tribunal must determine the best method, based on the evidence before it.

15. The tribunal considered the rental levels under the comparable properties and determined that: (a) there is a sufficient number of similar properties in the locality let on assured tenancies; and (b) the rent payable under the tenancy question is not significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents sought and payable in respect of the comparable properties.
16. These comparables support that similar flats in the locality, have a level of market rent under short assured tenancies within the range of £550-£695, therefore the level of £560 sought by the landlords is not significantly higher than the rent which the landlord might reasonably expect. Accordingly, in terms of section 34 (3) (b) of the 1988 Act the tribunal must not make a determination of rent for the property.

Mr David Preston

 Chairman

6 February 2019