

Housing and Property Chamber
First-tier Tribunal for Scotland



HOUSING (SCOTLAND) ACT 1988, SECTION 25(1)

REGISTER OF RENTS DETERMINED UNDER STATUTORY ASSURED TENANCIES

REFERENCE NO: APPLICATION RECEIVED

FTS/HPCRA/18/1621 2 July 2018

ADDRESS OF PREMISES

3 Broomhill Avenue, Glasgow G11 7AF

TENANT

Mr Richard Crawford

AGENT Brown & Co, Fleming House, 134 Renfrew Street,
Glasgow G3 6ST

**NAME AND ADDRESS OF
LANDLORD**

The Trustees of the Joel Shapiro
Trust
c/o Happy Lets
1287 Argyle Street,
Glasgow
G3 8TL

AGENT

Happy Lets,
1287 Argyle Street,
Glasgow
G3 8TL

RENTAL PERIOD

Monthly

DATE TENANCY COMMENCED

Before 1945

DESCRIPTION OF PREMISES

Ground floor main door tenement flat in four storey block circa 1880s, entrance porch, hall, living room, two bedrooms, dining kitchen, bathroom, basement, gross internal floor area 115 square metres

SERVICES PROVIDED

None

TRIBUNAL MEMBERS

CHAIRMAN
SURVEYOR

David Bartos, LLB(Hons), FCI Arb
Mike Links

PRESENT RENT

£ 6 000 p.a.

**RENT
DETERMINED**

DATE CONSIDERED

EFFECTIVE DATE

£ 6 360 p.a.

12 September 2018

28 August 2018

D Bartos

.....
**Chairman of the Housing and Property Chamber of the First-tier Tribunal
for Scotland**

.....
Date 17 September 2018

Housing and Property Chamber
First-tier Tribunal for Scotland



**Statement of Reasons for Decision of the Housing and Property Chamber
of the First-tier Tribunal for Scotland**

(Hereinafter referred to as “the Tribunal”)

Under section 25 (1) of the Housing (Scotland) Act 1988

Case Reference Number: FTS/HPC/RA/18/1621

**Re Property at : Main door flat, 3 Broomhill Avenue, Glasgow G11 7AE (“the
Property”)**

The Parties:

Richard Crawford, 3 Broomhill Avenue, Glasgow G11 7AE (“the Tenant”)
Represented by Vicki Pirie, Brown & Co., solicitors, Fleming House, 134 Renfrew
Street, Glasgow G3 6ST

Harvey Ian Shapiro, Tovah Shapiro as Trustees of the Joel Shapiro Trust, c/o
Happy Lets Limited, 1287 Argyle Street Glasgow G3 8TL (“the Landlords”),
Represented by Kira Keaney, Happy Lets Limited

The Tribunal comprised:-

David Bartos	- Legal member (Chairperson)
Mike Links	- Ordinary member (surveyor)

Background

1. This is a reference by the Tenant of the Landlords’ notice seeking an increase of rent for the Property. Through his reference the Tenant seeks a determination from the First-tier Tribunal of the open market rent for the Property

as defined in section 25(1) of the Housing (Scotland) Act 1988 as at 28 August 2018.

2. The tenancy is a statutory assured tenancy. On 21 February 2018 the Landlords served on the Tenant an AT2 Notice under section 24(1) of the Housing (Scotland) Act 1988 seeking an increase in rental to £530 per month with effect from 28 August 2018. By way of form AT4 dated 28 June 2018 the Tenant referred the Landlords' notice to the Tribunal for a determination of the said open market rent.

Inspection

3. The Tribunal comprising Mr David Bartos (Chairman) and Mr Mike Links (Surveyor Member) carried out an inspection of the Property on 12 September 2018. The Tenant was present throughout the inspection. Neither the Landlords nor their representatives were present. The Tribunal took the Schedule of Photographs which is attached to this Statement and incorporated herein.

Hearing

5. Both parties were given an opportunity to attend a hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow on 12 September 2018 at 11.30 a.m.. At the hearing the Landlords were represented by Kira Keaney, branch manager of Happy Lets. The Tenant was represented by Miss Vicki Pirie of Brown & Co, solicitors. The Tenant also appeared at the hearing and gave evidence. For her part Ms Keaney also gave evidence from her personal knowledge.

Description

6. The Property comprises a ground floor main door flat within a three storey and attics over basement blonde sandstone tenement building, built circa 1880, and located in a residential area in the Partick West area of Glasgow. It is near to but not part of Broomhill. The Property has an entrance vestibule, large hall, living room, two bedrooms, dining kitchen and bathroom. It has a gross internal floor area of 115 square metres or thereby. It has its own staircase leading to a large storage basement from which there is access to the common drying green at the rear of the building. In the basement the walls to the front of the Property are damp with debris peeling off them.

7. The Property has timber single-glazed sash and case windows throughout. Those in the living room, bathroom and one window in the front bedroom cannot be opened. The window in the rear bedroom has a broken sash cord.

8. The only heating in the Property is a gas fire in the kitchen that was installed by the Tenant. The fireplaces in the Property have been blocked up. Nevertheless the Property was wind and watertight.

9. There is a hot water boiler in the basement. This is only partly operational for the provision of hot water. One of the electrical wire connections has a missing cover leaving potentially live electricity wires exposed.

10. The Tenant has carried out all of the decoration. He has provided all of the floor coverings. He has installed the electric shower in the bathroom. The electric wiring in the Property is from the 1970s. The kitchen and bathroom fittings are basic and dated.

Documentation

11. The Tribunal had the following documentation before them : -
1. Form AT2 as completed by the Landlord (parts 1 and 2)
 2. Form AT4 completed by the Tenant
 3. Decision and Statement of Reasons of the Tribunal dated 18 January 2017
 4. Letter from Prof Tim Sharpe to Brown & Co, solicitors, being a report dated 15 May 2016 with enclosed photographs
 5. Written Representations by the Landlord's representative dated 20 August 2018
 6. Copy title sheet No. GLA108789 for the Property dated 21 August 2018
 7. Letting particulars for two-bedroom flats in Crow Road (4 No.), Broomhill Drive (2 No.), Woodcroft Avenue (3 No.), Clarence Drive (1 No.) Marlborough Avenue (1 No.), all in Glasgow.

Discussion

12. The task for the Tribunal under section 25 of the 1988 Act was to determine the rent at which the Property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy beginning on 28 August 2018.
13. The Tribunal were required to carry out the determination applying the test for valuation set out in section 25(1) of the 1988 Act while in terms of section 25(2) disregarding any effect on the rent attributable to (a) the sitting tenant (the Tenant), (b) to any improvement carried out by the Tenant or a predecessor in title except where carried out in pursuance of the terms of the lease, and (c) to any failure by the tenant to comply with the terms of the tenancy.
14. The tenancy was unfurnished. The Landlords have supplied only a gas cooker in the kitchen. The Tenant gave evidence and the Tribunal found that the Tenant had lived in the Property since about 1945 having inherited an originally regulated (protected) tenancy.
15. Turning to the question of rental levels, neither representative provided the Tribunal with documentary evidence as to the levels of rent for two-bedroom flats in the local area. The Tribunal itself investigated actual and

sought rental levels in the open market of such flats. These were notified to parties and their representatives in advance of the hearing.

16. The Tenant's representative submitted that no rent increase was reasonable. The Property had no heating and poor windows. It was not wind and watertight. No works had been carried out since the last Tribunal decision which valued the rent at October 2016 levels. She submitted that the Property would not let on the open market at all. She acknowledged that levels of rent generally had increased in the area since October 2016. Nevertheless she submitted that given that the Property would not let at all there was no room for any increase in rent.
17. She had no submission to make on what would be the open market rent for the Property were it to be in the fully modernised condition that the flats were that were in the letting particulars provided by the Tribunal. Nor did she have any submission to make on the costs to bring the Property to a modern standard that would attract a higher rent.
18. The Tenant spoke to there being dampness on the walls in the basement with possible rot giving him breathing difficulties.
19. The Landlord's representative submitted that her firm had taken over the management of the Property at the start of 2018. On inspection the lack of heating, windows and ageing electric switchgear were seen as priorities for action. She explained that Peter Cox, timber specialists has been asked to report on the state of timber in the Property. They had issued a report recommending treatment at a cost of £ 3,000 approximately. This could only be done once the basement was cleared of the Tenant's belongings.
20. With regard to rent levels she submitted that in her experience – having worked for 12 years with Happy Lets – all rents had gone up 5 to 10% in the last two years. This was reflected in the rent sought. In her submission with basic replacements to the windows, fresh decoration, fresh carpets, new facings for the kitchen units and the supply of electrical heaters into the rooms, they would seek £ 750 per month. If the basement was fully treated and gas central heating installed with full refurbishment and modernisation of the facilities including new kitchen and bathroom fittings, the Property could give a rent of £ 850 per month. This in her submission accorded with the rents in the letting particulars for the properties found by the Tribunal.
21. She submitted that the cost for the “basic replacement” would be in the range of £15,000 while that for the full refurbishment would be in the area of £35,000. She explained that such was the quoted cost for a similar property of another client for such full modernisation.

22. In response to the suggestion that in its present condition the Property was unlettable, Ms Keaney pointed out that with the size of the Property and its storage it would attract the rent sought. Tenants, particularly foreign students would be prepared to tolerate the lack of heating and single glazed windows for a low rent.
23. Using their knowledge and experience the Tribunal found that a fully modernised and furnished two-bedroomed flat in the locality of the Property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy let for £ 825 per month. In reaching this view the Tribunal took the view that evidence of actual agreed lets was of greater value than that of rents sought as the latter could be prone to an element of wishful anticipation on the part of a landlord. Accordingly the Tribunal placed weight on evidence of actual recent lets of a 2 bedroom unfurnished ground floor flat on Crow Road let by Kite Lettings for £ 795 per month and a 2 bedroom furnished property also on Crow Road let by Parker Property for £ 825 per month. The properties nearer to the Property were not of actual lets while the other properties of which letting details had been obtained were from areas that were more attractive to tenants. The Tribunal also took account of the large basement which provided considerable storage for a flatted property and would be attractive to tenants. However the Property was not a furnished let. All moveable contents of the Property fell to be disregarded. In addition the Tenant had carried out the improvements set out above which fell to be disregarded. Taking these matters into account and applying the disregards the Tribunal using its knowledge and experience reached the figure mentioned above.
24. The Tribunal took the view that in order to achieve the level of £ 825 per month an allowance would have to be made for the costs to the Landlords of the full modernisation of which Ms Keaney spoke. Taking the figure of £35,000 mentioned by her as in the view of the Tribunal a realistic one, the Tribunal, taking an average lifetime of the improvements of 10 years, annualised the cost to the Landlords at £ 3,500 per annum or £ 292 per month. Making that monthly deduction the Tribunal arrived at the figure of £ 530 per month allowing for rounding down.
25. The Tribunal was unable from its inspection to find that there was any dry rot in the Property and it was not supplied with the Peter Cox report
26. The Tribunal also considered the submission that due to the lack of heating and wind and watertightness the Property simply would not let on the open market at all. While the Tribunal took account of the report from Professor Sharpe on this matter, it was not given any evidence from the Tenant of the windows leaking or being draughty. Its own inspection indicated if

anything that the windows were sealed or difficult to open. It therefore rejected the contention in Professor Sharpe's report that the flat was not reasonably wind and watertight. While there was no doubt that the Property lacked heating the Tribunal accepted the evidence of Ms Keaney that tenants would take on the Property in the current market conditions at the level of £ 530 per month where there was high demand for properties in that area at such rental levels.

27. There was no Electrical Installation Condition Report, Gas Safety Certificate or Energy Performance Certificate pertaining to the property made available to the Tribunal during their inspection.

Decision

- 28 Taking account of all the relevant circumstances the Committee determined that the rent at which (subject to section 25(2) and (3)) the Property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy beginning on 28 August 2018 would be a rent of £ 530 per month.

Right of Appeal

- 29 A landlord or tenant aggrieved by this decision may seek permission from the Tribunal to appeal on a point of law against this decision to the Upper Tribunal and that within 30 days beginning with the date when this decision was sent to the party seeking permission.
- 30 Unless the lease or tenancy between the parties has been brought to an end, the appropriate respondent in such appeal proceedings is the other party to the proceedings and not the Tribunal which made the decision.

D Bartos

Signed

Date.....17 September 2018.....

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

SCHEDULE OF PHOTOGRAPHS

PROPERTY: MAIN DOOR FLAT, 3 BROOMHILL AVENUE, GLASGOW G11 7AE

REFERENCE: FTS/HPC/RA/18/1621

DATE: 12TH SEPTEMBER 2018.



FRONT ELEVATION



REAR ELEVATION



FRONT BEDROOM FIREPLACE



ELECTRIC CONSUMER UNIT.



BATHROOM



REAR BED-BROKEN WINDOW CORD



KITCHEN-SINK UNIT



COOKER



HALL CUPBOARD.



BASEMENT-WATER BOILER.



FUNGUS/DAMP IN B/MENT



BOILER-MISSING CAP AT IMMERSER