

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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/24/0104**

**12, Langside Road, 1/3, Govanhill, Glasgow, G42 7AG ('the Property')**

**The Parties:**

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

**William Burke residing at 12, Langside Road, 1/3, Govanhill, Glasgow, G42 7AG ('the Tenant')**

**Tribunal members:**

**Jacqui Taylor (Chairperson) and Carol Jones (Ordinary Member).**

### **1. BACKGROUND**

The Tenant has been a tenant of this property since 28<sup>th</sup> December 1984. The tenancy is a regulated tenancy in terms of the Rent (Scotland) Act 1984. The current rent is £4514.55 per annum (£376.21 per month) inclusive of services. The Landlords applied for the rent to be increased to £5208.36 per annum (£434.03 per month), including services of £60.84. The Rent Officer registered a rent of £5208.36 per annum (£434.03 per month) with effect from 28<sup>th</sup> December 2023. The Tenant referred the determination to the First tier Tribunal.

### **2. DIRECTION**

The Tribunal sent the parties a Direction dated 14<sup>th</sup> June 2024. The Direction explained that in determining the fair rent for the Property the Tribunal are required to consider the rentals of comparable properties and whether there is a scarcity of supply

of rental properties in the locality. The Tribunal advised that they have sourced the following rental information:

1. Details of eight properties currently being advertised for lease within Postcode area G42 from S1 Homes, Rightmove and Citylets.
2. Details of seven recent Fair rent properties within G42 from the Fair Rent eRegister.

Copies of the extracts were provided.

The parties were directed to provide the Tribunal with representations and any further information with regards to the said rental information of comparable properties and whether there is scarcity of supply of rental property in the locality by 19<sup>th</sup> June 2024.

The parties did not provide the Tribunal with any representations in response to the Direction.

### **3. THE INSPECTION**

On the afternoon of 20<sup>th</sup> June 2024 the Tribunal inspected the Property. The Tenant was present at the inspection. The Landlords were not present and were not represented.

The property is a first floor flat in a traditional red sandstone four storey tenement which is approximately 100 years old. It is located in the Govanhill district of Glasgow around 2 miles south of the city centre.

The accommodation comprises a living room, one double bedroom, one single bedroom, galley kitchen and internal shower room. The gross internal floor area is approximately 50 square metres.

There is a gas central heating system in the Property. The windows throughout the Property are double glazed.

At the rear of the Property is a communal amenity area for the tenement block with drying area and bin storage area.

The Tenant provided the appliances and also the carpets and floor coverings throughout the Property. The tenant was responsible for decoration of the Property. No furniture had been provided by the Landlords.

The Property is conveniently situated for public transport and local services. On-street parking is available in the locality.

The services provided by the Landlords are communal close cleaning, door entrance maintenance and back court maintenance.

Photographs that were taken during the inspection are attached as a Schedule to this Decision.

#### **4. THE HEARING**

The Tenant attended the hearing. The Landlords did not attend and were not represented. The Tribunal were satisfied that they had been notified of the hearing and proceeded with the hearing in terms of Procedure Rule 29.

Mr Burke advised the Tribunal that he had been a tenant within this tenement for 46 years and he objected to the rent increase. He accepted that he did not have any evidence of comparable properties at lower rents to put to the Tribunal. He did not have any comments to make about comparable evidence provided with the Direction from the Tribunal. He accepted that the Tribunal determine the correct rent by considering the comparable evidence and they can reduce, maintain or increase the rent for the Property. He objected to the poor service that he received from the Landlords and provided the Tribunal with examples of the poor service.

#### **5. THE DECISION**

The Tribunal had the following documents before them:-

1.0. 5.1 A copy of form RR1, the Landlords' application for registration of the rent.

5.2 Rental evidence sent to the parties with the Direction dated 14th June 2024.

5.2.1 The properties being advertised on S1 Homes, Rightmove and Citylets:

<b>Address</b>	<b>Accommodation</b>	<b>Rent requested</b>	<b>Furnished</b>	<b>Other details</b>

Garturk Street G42	2 beds LR, Kit and Bathroom	£775	No	Top floor flat, trad ten, Gas CH, DG, Galley kit, cooker, washing machine, modern bathroom, shower over bath.
Hollybrook Street G42	2 beds, LR, Kit and Bathroom	£875	No	Top floor flat. Refurb LA 3 storey tenement, GCH, DG
Inglefield Street G42	2 bed, LR, kit and Bathroom	£950	flexible	Four storey trad ten, mod small kit, new bath suite shower over, DG
Kingarth Street, G42	1 bed, LR, Kit and Bathroom	£695	Fully furnished	Second floor trad ten flat, bay window, modern kit and bathroom, shower over bath, laminate flooring
Allison Street, G42	1 bed, LR, kitchen and bathroom	£675	unfurnished	Top floor flat, Four storey trad ten, bay window, electric heating, DG, mod fitted kit, washing machine and cooker, mod bathroom, shower over bath
Craigie Street, G42	1 bed, open plan LR/kit, shower room	£745	unfurnished	Top floor flat, Four storey trad ten, bay window, electric heating, DG, mod fitted kit, new shower room, new flooring throughout
Calder Street, G42	1 bed. LR, Kit/diner, bathroom	£750	unfurnished	Top floor flat, Four storey trad ten, corner position, GCH, DG, fitted dining/ kit, with appliances

198 Calder Street, G42	1 bed, LR, kit and bathroom	£695	Furnished	Four storey trad ten, mod fitted small kit, shower room, electric heating
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#### 5.2.2 Details of Fair rent properties within G42 from the Fair Rent eRegister.

Address	Rooms	Date registered	Rent	Furniture	Services	CH	Size (from EPC)
3/1, 16 Langside Road	3 rooms	22/01/2024	£5208.60	none	61.08	full	49
3/1, 18 Langside Road	2 rooms	04/11/2023	4848.36	none	60.84	full	
1/1, 28 Langside Road	4 rooms	25/10/2023	5987.52	none	N/A	full	87
1/2, 66 Govanhill Street	3 rooms	7/12/23	5353.44	none	85.92	full	83

3/1, Govanhill Street	186	3 rooms	19/11/23	5473.44	none	85.92	full	
0/1, Street	11 Carfin	3 rooms	4/11/23	5398.20	none	130.68	full	48
1/1, Street	66	3 rooms	19/10/23	5353.44	none	85.92	Full	66

The Tribunal considered the condition of the Property, the representations and the documents provided and referred to above.

The Tribunal 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) which 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 recent 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 reviewed the evidence of registered rents in the Fair Rent Register. The rents range from £4848.36 to £5987.52 per annum. The Tribunal acknowledged that the property **16, Langside Road, 3/1, Govanhill, Glasgow, G42 7AG** is most comparable with the subject property in terms of location, size and amenities. The Tribunal therefore determined that the rent for **12, Langside Road, 1/3, Govanhill, Glasgow, G42 7AG** using the evidence of the registered rents is £5208.36 per annum.

The Tribunal also considered the evidence of market rents. The Tribunal recognised that properties let on the open market will normally have fully fitted kitchens, cooker, carpets and floor coverings 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 floor coverings 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 in their Direction dated 14<sup>th</sup> June 2024 had asked the parties to make representations to the Tribunal on the question of scarcity. However, the parties did not make any such representations.

The Tribunal acknowledged that there is a reasonable supply of similar properties to rent in the southside of Glasgow area and therefore there is no scarcity of supply of such properties at this time.

*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 sought by the Landlords and saw no reason to disturb the determination of the Rent Officer. Accordingly, the Tribunal determined that the fair rent for the Property is £5208.36 per annum, inclusive of services (which are less than 5% of the rent).**

In reaching this decision the committee 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 the 20<sup>th</sup> June 2024.

### **Appeals**

**In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

# J Taylor

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21st June 2024



Chairperson