

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision in respect of a referral to the First-tier Tribunal for Scotland Housing and Property Chamber for a Determination of Rent under Section 34(1) of The Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/RS/24/1850

Property: 5 Lady Road Place, Newtongrange, Midlothian EH22 4SU (“the Property”)

Parties:

Mandy Kensall and Heather Lundy, both 5 Lady Road Place, Newtongrange, Midlothian EH22 4SU (“the Tenants”)

and

Shaukat Rashid, c/o Rent Locally, Unit 1, 109 Swanston Road, Edinburgh EH10 7DS (“the Landlord”)

Tribunal members: George Clark (Legal Member/Chair) and Robert Buchan (Ordinary Member/Surveyor)

Background

1. The lease in the present case is a Short Assured Tenancy, commencing on 31 May 2016, the original rent having been £675 per month. The Landlord gave notice to the Tenants of his intention to increase the rent from £725 per month to £812 per month from 31 May 2024. The Tenants made an application to the First Tier Tribunal for Scotland Housing and Property Chamber (“the Tribunal”) for a determination of rent under Section 34(1) of

the Housing (Scotland) Act 1988 (“the 1988 Act”). The Tenants’ Notice of Referral (AT4) was dated 23 April 2024.

2. Prior to the Inspection and Hearing, the Tribunal provided the Parties with details of comparable properties on which they might rely in determining the application, namely:

2 Woodburn Park, Dalkeith, EH22 2DA
2 bed end terraced house with gas C/H, DG, 75 sq.m.
Asking rent £1075pm

8 Castle Place, Gorebridge, EH23 4TJ
2 bed flat with gas C/H, DG, 51 sq.m
Asking rent £900pm

32a Dundas Street, Bonnyrigg, EH19 3AY
1F 1 bed flat with gas C/H, DG, 56 sq.m.
Asking rent £800pm

19 Forthview Crescent, Danderhall, EH22 1NB
3 bed flat, with gas C/H, DG, 88 sq.m.
Asking rent £1500pm

1 Millhill Wynd, Musselburgh, EH21 7QZ
2 bed flat with Electric heating, DG, 60 sq.m
Asking rent £1100pm

3. A quarterly report by Citylets, a leading letting agency, was also sent to the Parties. Citylets describe themselves as follows: “Citylets has become the leading authority on the private rented sector and has built up a strong reputation for well-informed insightful commentary, market analysis and is now a trusted media source on local and national rental issues.”

The Inspection

4. The Tribunal inspected the Property on the morning of 4 September 2024. The Tenant Miss Lundy was present at the inspection. The Landlords were not present or represented.
5. The Property is a brick-built, two-storey mid-terraced house, built c.1991. It forms part of a small development of similar houses erected in a courtyard style. Residents’ parking is available.

6. The accommodation comprises a living room, two double bedrooms, kitchen and bathroom. There is a driveway at the front which can accommodate a car, and a small area of garden ground to the rear. The gross internal area is 64 square metres or thereabouts.
7. The Property has white meter electric heating, and the windows are double-glazed. The double-glazed window units are, however, beyond their useful life and the double glazing in the two bedrooms has failed.
8. The washing machine was provided by the Landlord. The Property is otherwise let unfurnished. The carpets are worn in places. The Tenants have added wall tiling in the kitchen and have carried out extensive redecoration during the tenancy.
9. There is a small general store within comfortable walking distance of the Property and, whilst some walking distance away, there are bus and rail services to Edinburgh.

The Hearing

10. Following the Inspection, a Hearing was held at George House, 126 George Street, Edinburgh. The Tenants were present. The Landlord was not present or represented. The Tenants' view was that the rent increase sought was excessive and that the rent they were currently paying was fair. They pointed out that the properties offered as comparables appeared to be in better general condition than the present Property and four of them had gas central heating.

Reasons for Decision

11. Section 34(1) of the 1988 Act provides that the tenant under a Short Assured Tenancy may make an application to the Tribunal for a determination of the rent which in the Tribunal's opinion, the landlord might reasonably be expected to obtain under the Short Assured Tenancy.
12. Section 34(3) of the 1988 Act states that where an application is made to the Tribunal under Section 34(1), the Tribunal shall not make such a

determination unless it considers (a) that there is a sufficient number of similar houses in the locality let on assured tenancies (whether Short Assured Tenancies or not) and (b) that the rent payable under the Short Assured Tenancy in question is 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 payable under the tenancies referred to in paragraph (a).

13. The Tribunal considered carefully all the evidence before it. The Tribunal noted that the latest Citylets Report indicates that rental levels for two-bedroom properties in Scotland have increased by 10.9% in the year to the end of the first quarter of 2024. The proposed rent is also significantly lower than the rental figures of the comparable properties. The Tribunal recognised that allowances should be made for the fact that the double glazing is no longer fit for purpose, the Property does not have central heating, and the tenants have carried out redecoration and tiling themselves. Even taking these into account, however, the Tribunal's view was that the rent sought by the landlord was not excessive in relation to current market figures.

Decision

14. Having taken all factors into account the Tribunal determined that, in terms of Section 24(3) and 34(1) of the Housing (Scotland) Act 1988, there is a sufficient number of similar, or at least comparable, houses in the locality let on assured tenancies but that the Tribunal could not make a finding that the rent sought is 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 payable under those tenancies in the locality. Accordingly, the Tribunal was unable to make a determination of rent in the present case.

.....G Clark.....
(Legal Member/Chair)

Date: 4 September 2024

Housing and Property Chamber
First-tier Tribunal for Scotland



Housing (Scotland) Act 1988

Non-determination for Short Assured Tenancy

REFERENCE NO.

FTS/HPC/RS/24/1850

APPLICATION RECEIVED

23 April 2024

ADDRESS OF PREMISES

5 Lady Road Place, Newtongrange, Dalkeith, Midlothian, EH22 4SU

TENANT

Miss Heather Lundy, Ms Mandy Kelsall,

**NAME AND ADDRESS OF
LANDLORD**

Mr Shaukat Rashid
C/O Rent Locally, Unit 1, 109
Swanston Road, Edinburgh, EH10
7DS

AGENT

RENTAL PERIOD

Initial 6 months and continuing

DATE TENANCY COMMENCED

31 May 2016

DESCRIPTION OF PREMISES Mid-terraced house (1991) on 2 floors in primarily residential area. Living room, 2 double bedrooms, original kitchen and bathroom (bath with shower over). Electric white meter heating. Double glazing has failed. Unfurnished, apart from white goods. Small garden to rear. Driveway to front with off-street parking.

SERVICES PROVIDED

None

TRIBUNAL MEMBERS

CHAIRPERSON

George Clark

ORDINARY MEMBER (SURVEYOR)

Robert Buchan

ORDINARY MEMBER

PRESENT RENT

£8,700.00

The tribunal did not make a determination when they considered the matter on 4 September 2024.

Remarks

G Clark- Chairperson of tribunal

4 September 2024
