

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/24/1941

Property: 49 Clayhills Drive, Dundee DD2 1SG (“the Property”)

Parties:

Ms Susan Ranstead, 49 Clayhills Drive, Dundee DD2 1SG (“the Tenant”)

and

Ms Miranda Tay c/o Belvoir Lettings, 26-28 High Street, Dundee DD1 1TA (“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 17 March 2016, the original rent having been £800 per month. The Landlord gave notice to the Tenant of her intention to increase the rent from £820 per month to £1,300 per month from 1 August 2024. The Tenant 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 26 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:

90 Clayhills Drive, Dundee. 4 bed detached house with garage. Unfurnished. Floor area 126 sq.m. Asking rent £1600pm.

7 Peel Street, Dundee, 3 bed detached house, no garage, unfurnished. Floor area 90 sq.m. Asking rent £1400.

3 Strathgray Wynd, Dundee, 3 bed semi-detached house with parking space. Unfurnished. Floor area 99 sq.m. Asking rent £1450 pm.

33 Blyth Street, Dundee, 3 bed mid terraced house, parking space, unfurnished. Floor area 80 sq.m. Asking rent £1200 pm.

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 18 September 2024. The Tenant was present at the inspection. The Landlord was represented by Mr Billy Baxter of Belvoir Lettings, Dundee.
5. The Property is a detached, brick-built, two-storey house, built approximately 30 years ago.
6. The accommodation comprises a living room with dining area, three double bedrooms (one of which has an en-suite shower room), kitchen and bathroom, plus a utility room with toilet off. There is a driveway at the front leading to an integral garage, and a good-sized area of garden ground to the rear. The gross internal area is 92 square metres or thereby.
7. The Property has gas central heating, and the windows are modern upvc double-glazed. The bathroom fittings are dated.

8. The Property is let unfurnished and is in good order throughout. The carpets were provided by the Landlord and the kitchen and bathroom flooring by the Tenant. The Tenant has carried out redecoration during the tenancy.
9. The Property is situated in a predominantly residential area close to Ninewells Hospital and the University of Dundee.

The Hearing

10. Following the Inspection, a Hearing was held at Endeavour House, 1 Greenmarket, Dundee. The Tenant was present and was supported by Mr Grant Agar. The Landlord was represented by Mr Baxter. The Tenant's view was that the rent sought was excessive, being a 64% increase on the present figure. She contended that the market conditions created over the last few years had resulted in a significant increase in rent levels for new tenancies compared to the restrictions imposed on rent increases for existing lets. She pointed out that the family bathroom had not been updated since the Property was built and suggested that the properties used as comparables were more modern. She confirmed that the rent had not been increased for five years.

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 (Q2 2024) indicates that the average rent for three-bedroom properties in Scotland is £1,628 and that the average for three-bedroom properties in the DD2 postal area is £1,394. The proposed rent is also lower than the rental figures of the comparable properties. The Tribunal's view was that,, even making allowances for the dated bathroom and the fact that some of the comparables were more modern houses, 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.

15. The Tribunal noted that its determination represents an enormous increase for the Tenant and would hope that the Landlord might be open to a discussion with her as to whether the increase might be phased in over a period of time.

G Clark

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(Legal Member/Chair)

Date: 18 September 2024