

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

(Hereinafter referred to as “the Tribunal”)

Under Section 28 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Case Reference Number: FTS/HPC/RN/25/3009

Re: 65 Parklands Crescent, Dalgety Bay, KY11 9FN (“the property”)

Mr Paul Keenan and Mrs Lucinda Keenan (Applicants and Landlords)

Mr Andrew Swain and Miss Caitlin Collins (Respondents and Tenants)

Tribunal Members – Sarah O'Neill (Legal Member) and Robert Buchan (Ordinary (Surveyor) Member)

Decision

The Tribunal determines that the rent to be payable by the Respondents in respect of the property is £900 per calendar month and that rent shall apply and take effect from 6th January 2026, taking into account the provisions of section 29(2) of the 2016 Act. The decision of the Tribunal is unanimous.

Background

1. An application to the Tribunal by Your Move, the Applicants' agent, was received on 11 July 2025. The landlords are Mr Paul Keenan and Mrs Lucinda Keenan. The tenants are Mr Andrew Swain and Miss Caitlin Collins. The tenancy is a private residential tenancy under the 2016 Act.
2. On 23 May 2025, the Applicants' agent served a notice on the tenants under Section 22(1) of the 2016 Act, indicating that the landlords intended to increase the rent on the property from £662.73 per calendar month to £900 with effect from 6 September 2025.
3. The tenants timeously objected to that proposed increase by referring the proposed increase to the Rent Service Scotland.

4. By determination dated 11 June 2025 the rent officer fixed the rent at £785 per calendar month. Reference was made by the rent officer to two comparable properties nearby, in Inverkeithing and Dunfermline respectively. The monthly rent for one of these properties was £750 and the rent for the other one was £850 per calendar month.
5. The Applicants asked the rent officer to reconsider the rent level of £785 which had been fixed. After reconsideration, the rent officer's decision was that the rent should be £785 per calendar month. Again rents for two comparable properties in Dunfermline were referred to in the decision. The monthly rent for one of these properties was £850, and the monthly rent for the other one was £700. The landlords appealed that decision, and the matter was referred to the First-tier Tribunal. Both parties were invited to make written representations. Your Move had submitted on behalf of the Applicants recent listings from Rightmove of 7 comparable let properties in the close vicinity. No written representations were received from the tenants.
6. Both parties were notified that an inspection and hearing would take place, and were invited to attend both the inspection and the hearing. The inspection took place at the property on 20 November 2025 at 10.30am. The hearing was due to take place on the same day at 12.00pm. One of the tenants, Mr Andrew Swain, was present during the inspection. The Applicants did not attend the inspection and were not represented.

Findings in fact

7. The property comprises a mid-terraced modern house estimated to have been constructed in the 1990s.
8. The accommodation comprises a hallway, living room, kitchen, bathroom and two bedrooms, one double and one single. The gross internal floor area is approximately 55 square metres.
9. The property is located in a quiet residential area of Dalgety Bay, a commuter town in Fife, around 9 miles from Edinburgh city centre. It has a good level of local services and is close to both Dalgety Bay and Inverkeithing railway stations and to the M90 motorway. The tenants have not carried out any improvements to the property.
10. Internally the property is in a reasonable condition. It has gas central heating and double glazed windows. There is a small area of open garden at the front and an enclosed garden at the rear. The property does not have a garage or a driveway, but has two allocated parking spaces nearby.

The hearing

11. Following the inspection, the Tribunal held a hearing at the Vine Conference Centre, Dunfermline. Mr Swain was present at the hearing. The Applicants did not attend the hearing and were not represented.
12. During the hearing, the Tribunal asked various questions of Mr Swain. The Tribunal explained to him that it was required to fix the rent based on the concept of open market rent and explained the legal definition.
13. Your Move had submitted on behalf of the Applicants recent listings from Rightmove for 7 comparable properties in the area. Having researched the available two-bedroom houses for rent (or where a let had been agreed) within the area, the Tribunal found that those submitted by the Applicants' agent were the best available comparable properties. The rents for the various comparable properties identified by the Applicants' agent were advertised at a range between £895 and £1,000 per calendar month.
14. The Tribunal noted that the Applicants' agent had submitted that, despite there being multiple comparisons available in Dalgety Bay, the rent officer had made no reference to any of them, and had instead used two properties from a different town. They said that even if it were acknowledged that other comparisons were available but there was a reason to discount them from the comparison, they would like to understand the thought process behind it. They queried what the justification might be for setting the rent at £785 given that the only two comparisons used have more than 20% difference between them and are not the average.
15. Mr Swain said that the Respondents were currently looking to buy a property in the area, and had therefore viewed a number of similar local properties. He said that he believed that most of the comparable properties referenced by the Applicants were larger, and that unlike the property, most have driveways and/or garages and/or a slightly larger garden. He also believed that they would all have a double sized second bedroom, larger than that in the property.
16. He said that he had looked for other comparables in the local area and had not seen any others. He noted that rents in nearby Inverkeithing and Dunfermline were generally around £200-£300 less per month than in Dalgety Bay. He noted, however, that the proposed rent increase was a significant increase of 35% on the current rent.

The law

17. Section 29 of the 2016 Act provides that, where an appeal is made to the Tribunal under Section 28(1) of the 2016 Act, the Tribunal must make an order stating that from the effective date the rent payable under the tenancy is the

rent determined by the Tribunal in accordance with Section 32 of the Act. Under Section 29(2) of the Act, the effective date in the present application is the first payment date falling on or after the day on which the Tribunal makes its Order.

18. Section 32 of the Act states that the determination is to be made on the basis that the property in question would be let by a willing landlord to a hypothetical willing tenant under a new tenancy which would: (a) be a Private Residential Tenancy, (b) begin on the date on which the rent would have been increased in accordance with the rent increase notice, had a referral to a rent officer not been made, and (c) have the same terms as the tenancy to which the referral or (as the case may be) appeal relates.
19. The provisions set out in section 31A of the 2016 Act were repealed on 30 March 2025. This was before the rent increase notice was served on the Respondents on 23 May 2025. Section 31A does not therefore apply in this case.

Reasons for decision

20. The Tribunal is aware that the two relevant methods of assessing the open market rent in Scotland are:
 - (a) determining the open market rent by reference to market rents of comparable properties or
 - (b) determining the open market rent by reference to the anticipated annual return based on the capital value of the property.
21. Neither of these methods is the primary method. The appropriate method depends on the facts and circumstances of each case. The Tribunal also considered the observations of the Lord President in *Western Heritable Investment Co Ltd v Hunter* (2004) and also the 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.
22. There is no public register of rentals in Scotland and valuation is largely by evidence of advertised rentals in the area and the application of the knowledge and experience of the Tribunal Members. The rent officer only provides the briefest of detail of comparisons used in their assessment with no specific address, style, floor area or rationale as to how their valuation is arrived at. Accordingly, the Tribunal cannot analyse the rent officer's assessment. The rent officer had not inspected the property.

23. The assessment by the Tribunal is necessarily based on taking what evidence is available and adjusting for the differences in age, style, accommodation, floor area and any other relevant factors, such as location, condition, garden, garage, amenity etc, to arrive at a valuation.
24. The Tribunal carefully considered a variety of properties which were available for let in the area, the written submissions received from the Applicants' agents and the oral submissions of Mr Swain at the hearing. In advance of the hearing, the Tribunal members visited the locations of four of the comparable properties provided by the Applicants' agents, which the Tribunal considered to be the closest comparables in terms of size, type, age and location.
25. The comparisons used and viewed by the Tribunal are shown in the table below. The floor areas shown are taken from the Register of Energy Performance Certificates.

Comparisons for 65 Parklands Crescent, Dalgety Bay

Address	Style	Floor area	Features	Advertised rent	Additional note
26.					
Subject Property	Mid terraced	55 sq.m.	Gas CH & DG		No garage Designated parking only
Strathbeg Drive	Semi	62 sq.m.	No CH or DG	£1000	Garage and off st. parking
Moray Park	Mid terraced	68 sq.m.	Gas CH & DG	£975	No garage or parking space
Strathbeg Drive	End terraced	53 sq.m.	Gas CH & DG	£975	Off street parking
Wayfarers Drive	Semi	64 sq.m.	Gas CH & DG	£975	Garage and off st parking

26. The Tribunal members noted that the open market rent chosen by the rent officer, and then confirmed at reconsideration, was £785. It noted that the two comparators considered by the rent officer in reaching the initial decision were not in the immediate local area. The same was true of the two comparators selected by the rent officer at the reconsideration stage. All of the comparators were located in either Inverkeithing or Dunfermline, rather than in Dalgety Bay itself.
27. The Tribunal concluded that the Dalgety Bay comparators, which the Tribunal consider to be compelling given the proximity and general similarity, would suggest that the market rent is higher than the figure fixed by the rent officer. The Tribunal noted that the four most similar properties to the property had all been let for between £975 and £1000 per month. Whether the property had a garage or a driveway seemed to make little difference to the rent achieved. All but one of

the comparable properties had a larger overall floor area than the property. All but one had double glazing and gas central heating. Adjusting for the differences in style, floor area, features and parking produced a band of value between £825 - £950 per month.

28. The calculation of an appropriate return based on the capital value of the property did not appear appropriate to the Tribunal given (1) the imprecision of such a calculation which invariably requires the use of contentious variables (in particular the rate of return) compared to the relative ease of using comparable rents, (2) the readily available evidence of open market let property and (3) neither party led any evidence on this annual return basis of value.
29. In reaching its decision, the Tribunal had regard to all the circumstances required to be taken into account in terms of Section 32 of the 2016 Act.
30. Having weighed all of the available evidence, the Tribunal considered that given the evidence before it, £900 per calendar month was an appropriate open market rent for the property. It therefore determined to fix the open market rent for the property at that level.
31. This decision takes effect from 6 January 2026, taking into account the provisions of section 29 (2) of the Act.

Rights of review and appeal

32. In terms of section 30 of the 2016 Act and rule 37 (3) (j) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the Tribunal rules"), a decision of the Tribunal to make an order under section 29(1) of the 2016 Act is final and cannot be either appealed or reviewed.
33. The First-tier Tribunal may, however, review an order made under section 29(1) either (a) at its own instance, or (b) at the request of the landlord or the tenant under the tenancy to which the order relates.

Signed

S O'Neill

Date:... 8 December 2025

Sarah O'Neill, Chairperson