

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 28(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/RN/25/3654

Property: 27 Woodside Street, Rosyth KY11 2JR (“the Property”)

Parties:

ALV Holdings Limited, 1 The Dairy, Ridhead Farm, Kincardine FK10 4AT (“the Landlords”)

and

Miss Anji Miller, 27 Woodside Street, Rosyth KY11 2JR (“the Tenant”)

Tribunal members: George Clark (Legal Member/Chair) and David Godfrey (Ordinary Member/Surveyor)

Background

1. The lease in the present case is a Private Residential Tenancy with a current rent of £770 per month. On 14 July 2025, the Landlords gave notice to the Tenants of their proposal to increase the rent from £770 per month to £1,050 per month from 17 October 2025. The Tenant referred the rent for determination by Rent Service Scotland, and, on 5 August 2025, the Rent Officer determined the open market rent to be £770 per month. The Landlords appealed the determination and Rent Service Scotland confirmed its determination of £770 per month on 20 August 2025, effective from 17 October 2025.

2. On 25 August 2025, the Landlords appealed against the Rent Service Scotland decision to the Tribunal under Section 28(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act/the Act”). They provided comparable rental figures from the area which were higher than the rent set and contended that all maintenance had been sorted apart from a damp survey which was in progress. The Landlords also stated that their mortgage payments have increased.

3. On 30 January 2026, the Tenant’s representative, Mr Michael Marshall of Fife Law Centre, Lochgelly provided written submissions on her behalf. He pointed out that two of the comparables provided by the Landlords had been for the same property. The Tenant submitted that the properties identified by the Rent Officer offer a fairer reflection of market rents in Rosyth. The present Property is older and in a poorer state of repair than the comparables listed by the Landlords. Mr Marshall provided a copy report from Fife Council Environmental Health Department following an inspection of 11 September 2025, which concluded that the Property fails to meet the tolerable standard, and stated that works completed in December 2025 should be disregarded by the Tribunal as they post-date the application. He also contended that the fact that the Landlords’ mortgage payments have increased is an irrelevant consideration in determining market rent. Making rental decisions based on annual return based on capital value was notoriously unreliable. The Local Housing Allowance set for the Fife Broad Rental Market Area is £713.05 per calendar month. The current rent for the Property is considerably in excess of that figure and is a reflection of the open market within the KY11 postcode and, taking into account the condition of the Property, the Tribunal should confirm the Rent Officer’s figure.

4. The Tenant’s representative attached copies of a report from Fife Council Environmental Health dated 22 September 2025, which raised issues with a smoke detector and the state of disrepair of the kitchen extension, with the timber to the base decaying.

The Inspection

5. The Tribunal inspected the Property on the morning of 4 March 2026. The Tenant was present at the inspection, as was her representative, Mr Marshall. The Landlords were not present or represented.

6. The Tenant confirmed that four people live in the Property.

The Hearing

7. Following the Inspection, a Hearing was held by means of a telephone conference call. The Landlords (per Mr Alan Venters) were present and were represented by Miss June Greenhorn of Rent Locally, Edinburgh. The Tenant was present along with her representative Mr Marshall.

8. Mr Venters asked the Tribunal to take into account work that had been completed at the Property, including replacement of the roof, which had been undertaken following an assessment of the roof on 2 September 2025. The fact that it had taken until December for the contractors to carry out the work should not affect the fact that it was instructed in September. He had repaired condensation issues three times and had installed an extractor fan in the kitchen in January 2025. The roofer had inspected it initially but had found no water ingress or leak. A Damp Report by Wyse Property Services carried out on 22 August 2025 had confirmed there is no evidence of rising damp and that the problem was caused by condensation. The level of maintenance costs for the Property was disproportionate and was potentially unaffordable for the Landlords. The issue of the smoke detector included in the Fife Council Report was never reported to the Landlords, who have plans to have the extension rebuilt.

9. The Tenant told the Tribunal, in response to a question as to why the report from Fife Council had not been sent to the Landlords, that the reason she had obtained a Report from Fife Council was in connection with her application for rehousing.

Reasons for Decision

10. Section 29 of the 2016 Act provides that, where an appeal is made to the Tribunal under Section 28(1) of the 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. By Section 29(2) of the Act, the “effective date” in the present application is the first payment date falling on or after the date of this Decision, as the Tribunal’s Decision has been made after the date on which the rent would have been increased had the referral to the Rent Officer not been made. The position regarding liability for underpaid rent between the effective date of the Rent Officer’s decision and the actual effective date of the Tribunal’s determination is covered by the provisions of Section 31 of the Act.
11. Section 32 of the 2016 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.
12. The property is a two-storey mid-terraced former local authority house in Rosyth. It is conveniently located for local services and amenities, including schools and public transport. The property appears to be brick-built, with a tiled roof. There is room for off-street parking to the front and an exclusive area of garden ground to the rear. The accommodation comprises a living room and kitchen and an outbuilding extension housing a utility room on the ground floor, and three bedrooms, two double and one single, and a bathroom on the first floor.
13. The kitchen is equipped with a range of basic wall and base cabinets and laminate worktops and an electric oven and hob. The bathroom has a white suite comprising bath with shower over, basin and wc. Space heating and hot water are provided by a gas fired combi boiler located in the kitchen with

radiators throughout the Property. The radiator in the second double bedroom is too small for the size of the room. The windows are Upvc double glazed. The floor coverings are provided by the Landlords.

14. There is no public register of rentals in Scotland and valuation is largely by evidence of advertised rentals in the district and by way 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.
15. The Tribunal considered carefully all the evidence before it. The Landlords had supplied a list of comparables with links to archived online advertisements, which could be viewed by the Tribunal. The advertisements contained a description and limited photographs. No comparable evidence was submitted by the Tenants.
16. The rent levels asked for the comparable properties submitted by the Landlords were £995 for an end-terraced house in Camdean Crescent, Rosyth, £995 for a mid-terraced house, also in Camdean Crescent, and £950 for a mid-terraced house in Park Road, Rosyth.
17. The view of the Tribunal was that an open market rent for the Property in good condition would be £950 per month, but the Tribunal's determination had to reflect the condition of the Property and in particular the extension/outbuilding, as it is also the utility room of the Property. If the Landlords take it down and replace it, that work can be taken into account when the rent is next reviewed. The Tribunal noted that there had been condensation issues, which had been investigated by the Landlords and concluded that the problem could be resolved by ensuring a reasonable gap between items of furniture and walls and by a more effective combination of heating and ventilation. The Tribunal noted that the Landlords had re-roofed the Property and wished that to be taken into account as the work had been instructed before October 2025. The Tribunal did not have regard to that work

as the Notice of Increase of Rent had been served before it was instructed. To the extent that it might have an effect on the open market rent, it too can be taken into account when the rent is next capable of being reviewed. The Tribunal did not regard the fact that the Landlords' mortgage payments may have increased as a relevant consideration in a determination of rent.

Decision

18. The Tribunal determined that, having regard to the condition of the Property, and to market evidence, an open market rent for the Property compliant with the provisions of Section 32 of the 2016 Act would be £825 per calendar month, effective from the first payment date falling on or after the date of this Decision.

19. The Tribunal's Decision was unanimous.

20. In terms of Section 30 of the 2016 Act, the Tribunal's Decision is final and cannot be appealed.

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

Date: 14 March 2026