

Housing and Property Chamber

First-tier Tribunal for Scotland



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/22/2791

Flat0/2, 1 Ardoch Gardens, Cambuslang, Glasgow, G72 8HB ('the Property')

The Parties:

Mrs Anne Gilbride, residing at 20 Corroul Road, Newlands, Glasgow, G43 2DX ('the Landlord')

and

Mrs Kirsten Anderson, residing at 1 Ardoch Gardens, Cambuslang, Glasgow, G72 8HB ('the Tenant')

Tribunal members:

Paul Doyle (Legal Member) and Carol Jones (Ordinary Member).

BACKGROUND

1. The Tenant has rented this property from the Landlord (and their predecessor in title) since 1988. The tenancy is a statutory protected tenancy in terms of the Rent (Scotland) Act 1984. The rental from 2016 to July 2022 was £3,480.00 per annum (£290.00 per month). The Landlord applied for the rent to be increased. The Rent Officer registered a rent of £4,680.00 per annum (£390.00 per month) with effect from 12 July 2022. The Tenant referred the Rent Officer's determination to the First tier Tribunal.

2. To determine 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 found the following rental information:

- (a) Details of 3 Fair rent properties within G72 from the Fair Rent eRegister.
- (b) An extract from the Citylets report for Q3 of 2022

(c) Details of 7 open market rental properties advertised for rental on rightmove.co.uk in September 2022.

3. The parties were asked 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. The tenant made written representations on 12 October 2022. The Landlord lodged written submissions on 20 October 2022.

THE INSPECTION

4. At 10am on 28 October 2022 the Tribunal inspected the Property. The Tenant was present at the inspection. The Landlord was neither present nor represented.

5. The property is a ground floor flat in a two storey traditional stone built terrace and entered from a common passage and stair. It is situated in a predominantly residential area in the Cambuslang district of Greater Glasgow and located around 4.5 miles south-east of the city centre. The front door of the property opens onto a vestibule, which leads to a central hallway, which provides access to a living room, two bedrooms, a kitchen with dining area and a bathroom containing a three piece sanitary suite. There are two cupboards in the central hallway. The property benefits from a brand new gas central heating system installed in April 2022. The internal floor area is approximately 80 square metres. There is a garden for the tenant's exclusive use to the front of the property, and a shared drying green to the rear. There are timber single glazed sash and case windows throughout the property. The painted surface of the woodwork around the windows is peeling. There are early signs of rot in some timber window frames. The front wall separating the front garden for the street has collapsed.

6. The Tenant provided the carpets and floor coverings throughout the Property. No white goods, appliances or furniture have been provided by the Landlord. The tenant fitted a new kitchen and rebuilt part of the interior wall between the kitchen and the bathroom approximately 8 years ago. She also paid towards the Landlord's upgrade of the bathroom approximately 7 years ago by contributing part of the cost of extra higher quality tiling and a shower mixer tap on the bath. The tenant has consistently decorated and carefully maintained the property since taking entry in 1988.

7. On-street parking is available outside the Property. No services are provided by the Landlord.

THE HEARING

8. The tenant attended the hearing but was not represented. The landlord was neither present nor represented. We take account of the parties' written submissions.

THE DECISION

9. The Tribunal had the following documents before them:-

1. A copy of form RR1, the Landlords' application for registration of the rent.
2. Rental evidence listed at paragraph 2 above.
3. The tenant's written submissions dated 5 and 12 October 2022
4. The landlords submissions dated 26 September 2022 and 20 October 2022

10. Both parties agree that a new gas central heating system was installed (for the first time) within the last 12 months.

11. The Tribunal obtained details of comparable fair rents of two bedroom properties from the Fair Rent eRegister. The tribunal also obtained details of two bedroom properties available for rent in the post code areas G72 area in September 2022. A schedule of the comparative rental figures available to the tribunal was circulated to the parties on 12 October 2022.

12. 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'.

13. Section 48(2) of The Rent (Scotland) Act 1984 requires the tribunal 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.

14. 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 more 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.

15. The tribunal discussed the available comparative figures with the tenant, who reacted with shock at the level of comparative open market rental figures available to the tribunal. After an adjournment to collect her thoughts, the tenant decided to withdraw her application and accept the rent officer's determination.

16. Because of the level of increase in rental, the tenant expressed the hope that the landlord would be willing to accept a phased increase in rental to the level of the rent officer's determination.

17. In her response dated 26 September 2022 the Landlord indicates a willingness to have maintenance and repair work carried out to the windows in the property. The Landlord has been waiting for confirmation that the windows in the flat above the property have been replaced. On the facts as we find them to be, the window replacement/repairs in the neighbouring upper flat is now complete.

Decision

18. Relying on paragraph 15 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tenant withdrew her application.

19. The rent officer's determination that the fair rent for the property is £4,680.00 per annum stands.

Paul Doyle

Legal Member

4 November 2022