

Housing and Property Chamber
First-tier Tribunal for Scotland



Housing (Scotland) Act 1988

Register Of Rents Determined Under Short Assured Tenancies

REFERENCE NO.

FTS/HPC/RS/17/0465

APPLICATION RECEIVED

5 December 2017

ADDRESS OF PREMISES

The Bungalow, Middleton Farm, Muthill, Crieff, PH5 2BT

TENANT

Mrs Catherine Templeton

NAME AND ADDRESS OF LANDLORD

Mr Jamie Finlayson
Middleton Farm
Muthil
Crieff PH5 2BT

AGENT

Elliot & Company WS
8 Charlotte Street, Perth, PH1 5LL

RENTAL PERIOD

Yearly

DATE TENANCY COMMENCED

8 May 1998

DESCRIPTION OF PREMISES

Detached three apartment cottage at Middleton Farm, Muthill, Crieff, PH5 2BT

SERVICES PROVIDED

None

TRIBUNAL MEMBERS

CHAIRPERSON

ORDINARY MEMBER (SURVEYOR)

Ewan Miller

David Godfrey

PRESENT RENT

£3,600.00

DETERMINED RENT

£6,000.00

DATE OF DECISION

3 April 2018

EFFECTIVE DATE

8 April 2018

E Miller

Chairperson of tribunal

3 April 2018

Date

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

Determination of First-tier Tribunal for Scotland (Housing and Property Chamber) under the Housing (Scotland) Act 1988 Section 34

Chamber Ref: FTS/HPC/RS/17/0465

The Bungalow, Middleton Farm, Muthill, Crieff, Perthshire, PH5 2BT

The Parties:

JAMIE FINLAYSON residing at Middleton Farm, Muthill, Crieff, Perthshire, PH5 2BT (“the Landlord”) represented by Mr MacDuff-Duncan of Elliot & Company WS, Solicitors, 8 Charlotte Street, Perth, PH1 5LL

MRS CATHERINE TEMPLETON residing at The Bungalow, Middleton Farm, Muthill, Crieff, Perthshire, PH5 2BT (“the Tenant”)

Tribunal Members:

MR E K MILLER, Chairman and Legal Member and **MR D GODFREY**, Ordinary Member

BACKGROUND

1. Introduction

This is an application by the Tenant to the First-tier Tribunal (Housing and Property Chamber) (“the Tribunal”) for a determination of the rent payable under Section 34 of the Housing (Scotland) Act 1988. The tenancy is a short assured tenancy. The tenancy commenced in May 1998 and the lease narrated a rental of £252 per calendar month (although, in practice, it appeared the Tenant paid £240 per month). The rent subsequently increased to £300 per calendar month a few years ago and the rent remained at that level as at the hearing date.

On 25 January 2017, the Landlord’s agents Elliot & Co wrote to the Tenant proposing an increase in the rent to £550 per calendar month. There then followed a discussion between the parties. Agreement was not able to be reached. A more formal notice was sent by the Landlord’s agent to the Tenant on 6 July 2017 again seeking to increase the rental to £550 with effect from 8 January 2018. The Tenant responded by submitting a form AT4 dated 5th December 2107 to the Tribunal in the prescribed form, requesting the Tribunal to determine the correct open market rent. The Tribunal was satisfied that it had jurisdiction to deal with the application.

2. The Inspection

The Tribunal inspected the Property on 23 March 2018. The Tenant was present during the inspection along with her husband and son. The Landlord, Mr Jamie Finlayson, was present as was his father, the original landlord at the time of grant of the lease. Neither party was formally represented at that point.

The Tribunal noted that the Property was located in a rural and relatively isolated position. The Property was accessed off a single track road. The Property, which was a single storey detached cottage, built in the 1940s, comprised a small entrance porch that led to an average size kitchen, a small internal hallway, a reasonable sized lounge, two average size bedrooms and standard bathroom. Internally the Property was in good state of decorative repair. There was some minor mould in some of the rooms that appeared to the Tribunal to be as a result of condensation. There was a small area of garden ground, parking area and an area of hard standing for a caravan. There was limited useable garden ground. The Property to the front had views over a neighbouring field and stream. Generally the Property was in a pleasant location.

3. The Hearing

Following the inspection the Tribunal held a Hearing at North Inch Community Campus, Gowans Terrace, Perth. The Landlord and his father were present and represented by Mr MacDuff-Duncan of Elliot & Company. The Tenant was present and accompanied by her husband and son.

The Landlord's agent submitted that £550 was a more than fair rental to be charging for this Property. They submitted that it was in an attractive and convenient location.

The Landlord had provided a valuation by Next Home, Estates & Letting Agents who were of the view that an open market rent for the Property would be in the region of £575-£600 per month.

The Landlord's agent was aware that comparable evidence was an important factor in establishing the open market rent of the Property. The Landlord's agent had submitted a list of properties carried out via an internet search from www.zoopla.co.uk. This comprised some 25 properties ranging in value from £400 per month and £1250 per month. A number of these were not directly comparable but did give the Tribunal the benefit of an overview of the Perthshire market in general.

Particular reference was made by the Landlord's agent to a one bedroom cottage in Drummond Street, Muthill at £550 per calendar month (which was clearly smaller than the property in question), a 3 bedroom cottage in Meigle at £650 per calendar month and a 2 bed cottage to rent in Kettins at £500 per calendar month. Reference was also made to [Hulvie Cottage, Meikleour] at

£550 that had been rented within a day or two of being placed on the market. This was a 2 bedroom cottage on the fringes of the village.

Reference was also made to another property rented by the Landlord to a sitting tenant where a higher rent had been agreed. This other property was located near the Property. The Landlord confirmed that this was a 3 bedroom property with oil fired central heating and was therefore larger than the Property in question. This had a market value estimation by Next Homes of £650 although the Landlord had actually agreed £525 per calendar month.

The Landlord's agent submitted that £550 per calendar month was an appropriate market rent for the Property in its current condition and was confident that if the property was re-let in its current condition that would be the rental achieved.

The Tenant submitted that she accepted that the current rental of £300 was too low and that a rise would need to occur to bring the rental back in line with the open market. However, she was distressed by the fact that a very significant rental, almost double, was being sought from her all in one go. The Tribunal had some sympathy for the Tenant's position in this regard. The Tribunal did note that the terms of the Act in relation to short assured tenancies did not give any protection to tenants against a large increase in rent if that was what the open market dictated. It did, of course, remain open to the parties to agree matters between themselves directly should a compromise be able to be reached.

Agents for the Tenant had previously submitted some comparable evidence of a bungalow in Drummond Terrace, Crieff at £525 per month a couple of years ago. This was an unfurnished cottage with 3 double bedrooms, sizeable lounge and gas central heating. Evidence was also provided regarding Dalchonzie Cottage by Comrie – this was a top floor flat with 2 bedrooms, 2 public rooms, private garden and furnished and was let at £500 per calendar month.

The Tenants also provided information in relation to a property at Arbennie Farm at a rental of £500. However, the rental had been set at that level since 2005. The Tribunal felt this effectively meant that the current rental was no longer relevant given its age and should be discounted from its considerations.

Another property at Lagg Cottage had also been highlighted by the Tenant. This was a property outside Crieff. It was a two storey detached cottage with 2/3 double bedrooms, double glazing at £500 per month. The Tribunal did note that this had been rented out at that level in 2014.

4. The Decision

In terms of Section 34 of the Housing (Scotland) Act 1988, the Tribunal must make a determination of the rent which, in the Tribunal's opinion, the Landlord might reasonably be expected to obtain under a short assured tenancy. In

terms of sub-section (3) the Tribunal is not to make a determination unless it is satisfied that (a) 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 obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in (a) above.

On balance, having considered matters, the Tribunal was satisfied that while there were not a huge number of comparable properties there was sufficient for it to make a determination. The Tribunal determined that the rental of £550 was higher than the Landlord might reasonably be expected to obtain under the short assured tenancy. The Tribunal was satisfied that an appropriate amount was £500 per calendar month.

A copy of the photographs taken during the course of the inspection are annexed hereto for information.

5. Reasons for decision

The Tribunal considered the comparable properties that both parties had set out. In relation to the Landlord's comparables, the Tribunal did not lend any great weight to the properties at Meigle and Kettins as they felt these were a little too distant to be a relevant comparison.

The one bedroom cottage to rent in Drummond Street, Muthill was more relevant at £550. This was a smaller property. The Tribunal did note that this had now been on the market for 3 months which would suggest that the rental sought was higher than would realistically be achieved. The property was also in the village rather than in a more remote location which would lift the rental in comparison to the Property.

The Tribunal did note the rental of Lagg Cottage at Crieff at £500 per month. This had been let in 2014 and so would undoubtedly now attract a higher rental in early 2018. It was, however, a larger and more attractive property than the Property. The Tribunal was of the view that Lagg Cottage might well now attract £550-£600 per calendar month taking account the movements in open market rent since 2014. This would, however, indicate that £550 was on the high side for the Property.

Similarly with the bungalow at Drummond Terrace, Crieff, which was a larger and more attractive property, and would also undoubtedly now rent for nearer £575 to £600. However, it was significantly larger and more attractively located than the Property. Accordingly this again indicated that £550 was on the high side for the Property.

The Tribunal also considered Hulvie Cottage, Meiklelour at £550. This was probably the most directly comparable property. This was located on the fringes of the village and this would make it a more attractive property. Again

this indicated to the Tribunal that the figure of £550 sought for the Property was on the high side.

Finally, the Tribunal noted that the Landlord themselves had let out a larger property in a very close location to the Property at £525. Whilst the Landlord contended that this had a higher market value, nonetheless the current rental was £525 and therefore that must, to some extent, represent market value. Accordingly, this again indicated to the Tribunal that the £550 per calendar month sought was too high.

The Tribunal was of the view that whilst the Property was generally attractive, none of the rooms were particularly large and the Property was in a more remote location than others. It had limited garden ground. This would impact on the rent achievable.

On balance, the Tribunal was satisfied that whilst there was a limited number of houses in the area on which to base a comparison, there was enough information to satisfy the terms of Section 34(a). The Tribunal was of the view in relation to paragraph (b) that a rental of £500 per calendar month was what the Landlord might reasonably expect to receive. The Tribunal was satisfied that this met the “significantly higher” test in Section 34(b). The average tenant would, in the view of the Tribunal, deem a rental 10% higher than the Tribunal’s valuation of £500 to be significant.

Accordingly, taking into account all the information, the Tribunal considered that the rent which the Landlord might reasonably be expected to obtain under the short assured tenancy was £500 per calendar month (£6,000 per annum). In reaching its decision the Tribunal had regard to all the evidence led before it, in the papers, the evidence obtained at the inspection and the hearing and all the circumstances which require to be taken into account in terms of Section 34 of the Housing (Scotland) Act 1988. The Tribunal decided that the amended rent of £500 per calendar month should take effect from 8th April 2018.

6. Right of Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

E Miller

Chairperson

Date

3/4/2018

*This is the photosheet referred to in the foregoing decision
dated 3 April 2018*

Housing and Property Chamber First-tier Tribunal for Scotland



PHOTOSHEET



Property: The Bungalow, Middleton Farm, Muthill, Crieff, Perthshire PH5 2BT

Ref no: FTS/HPC/RS/17/0465

Tribunal: Ewan Miller and David Godfrey

Inspection: The property was inspected at 10.00 am Friday 23rd March 2018.

Access: Mrs Templeton (Tenant) was present and provided access to the property.

Photographs

1. Front elevation.
2. Bathroom.
3. Kitchen.



Bathroom



Kitchen

23rd March 2018

David Godfrey