

Housing and Property Chamber
First-tier Tribunal for Scotland



Housing (Scotland) Act 1988

Non-determination for Short Assured Tenancy

REFERENCE NO.

FTS/HPC/RS/18/0757

APPLICATION RECEIVED

3 April 2018

ADDRESS OF PREMISES

1/2 1320 Govan Road, Glasgow, G51 4RE

TENANT

Mr Alexander McCafferty and Mrs Melissa McCafferty

**NAME AND ADDRESS OF
LANDLORD**

Home Group Limited, having their registered office at
2 Gosforth Park Way, Gosforth
Business Park, Gosforth, Newcastle
Upon Tyne, Tyne and Wear, NE12
8ET and having a place of business
at Pavilion 6, Parkway Court, 321
Springhill Parkway, Glasgow G69
6GA

AGENT

T C Young LLP
7 West George Street, Glasgow, G2
1BA

RENTAL PERIOD

6 months and monthly thereafter

DATE TENANCY COMMENCED

19 August 2016

DESCRIPTION OF PREMISES: First floor flat in 3-storey block of 6 flats erected in 2016. Living room/kitchen. 2 double bedrooms. Bathroom. Unfurnished, but white goods, window blinds, carpets and hardwood floor coverings provided by landlord. Unallocated residents' car parking. The property is within easy reach of services, with rail and bus links to Glasgow city centre. The property is well-decorated and well-maintained. The internal floor area of the property is approximately 77 square metres.

SERVICES PROVIDED

Common stair cleaning, car park and landscaped ground maintenance.

TRIBUNAL MEMBERS

CHAIRPERSON
ORDINARY MEMBER
(SURVEYOR)

George Clark
Robert Buchan

PRESENT RENT

£5,353.56 per annum (£446.13 pcm)

The tribunal did not make a determination when they considered the matter on 21 June 2018.

Remarks; The landlord had proposed a rent of £5,788.68 (inclusive of service charge of £326.28) per annum from 1 April 2018. This corresponded to £482.39 per calendar month ("pcm"). The tenants had complained about the level of increase relative to the cost of living and had stated that a hotel was in course of construction next to their bedroom window and that this would be detrimental to their amenity.

The Tribunal inspected the property on 21 June 2018 and held a hearing thereafter at Glasgow Tribunals Centre. The tenant was present at the inspection but was not present or represented at the hearing. The landlord was not present or represented at the inspection, but was represented at the hearing by Claire Mullen of TC Young LLP. A file of photographs of the property, taken at the inspection, is attached to this decision.

The Tribunal noted that the Scottish Government Private Sector Rent Statistics 2010 to 2017 indicated that the mean market rental for 2 bedroom flats in Glasgow was £764 pcm and for Renfrewshire £508 pcm. The Citylets Quarterly Report for Q1 2018 showed average rents in Glasgow for 2 bedroom flats as £764 pcm and for Renfrewshire £524 pcm. For postcode G51, the average, based on a supply of 33 flats was £550 pcm. The Tribunal members' own internet research suggested that rents in the area were between £550 and £600 pcm, apart from the block in which the property was located, where the average was £450. The time taken to let the flats in the block was 3-5 days. The Tribunal noted, however, that these figures preceded the increase which had been proposed in this case from 1 April 2018. The average of 27 flats in the area listed by Rightmove was £589 pcm.

The landlord's representative provided 37 comparable rent figures for the development of which the present block forms part. These were all identical, as at 1 April 2018, to the rent proposed for the property. The landlord's agent asked the Tribunal to make no determination, as the rent proposed was not significantly higher than that of comparable flats in the area.

Section 34(3)(b) of the Housing (Scotland) Act 1988 stipulates that where an application is made to the Tribunal by a tenant for a determination of rent under a Short Assured Tenancy, the Tribunal shall not make a determination unless it considers that there is a sufficient number of similar houses in the locality let on assured tenancies (whether Short Assured Tenancies or not) and 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 of such similar houses in the locality.

The Tribunal determined that, on the extensive evidence before it, there was no scarcity of similar properties in the locality let on assured tenancies. It also determined that the numerous comparables which it had considered indicated

that the rent proposed by the landlord was not significantly higher than the rent for similar house in the locality and that the Section 34(3)(b) requirements had been met. With the exception of rents for flats in the development of which the property forms part, all comparable rentals considered by the Tribunal were higher and they did not include any element of service charge.

The Tribunal considered the tenant's contention that the the erection of a hotel next door was detrimental to the tenant's amenity and should, therefore, be reflected in a lower rent. The Tribunal noted that the hotel under construction will be approximately 25 metres away from the gable wall of the property, but the property lies on a busy main road, close to a major hospital and the Tribunal was unable to speculate on the impact, if any, of the hotel when completed. The tenant had also raised arguments about the level of the proposed increase relative to the cost of living, but this is not a matter that the Tribunal could take into account. The only test that the Tribunal could consider, in the absence of scarcity, was comparable rental evidence and, in this case, the evidence was overwhelming.

Accordingly, the Tribunal did not make a determination of rent in respect of the property.

Appeals

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.

G. Clark

.....Chairperson of Tribunal

21 June 2018

.....Date