

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/17/0068

APPLICATION RECEIVED

23 February 2017

ADDRESS OF PREMISES

Old SchoolHouse, Blacklunans, Blairgowrie, Perthshire, PH10 7JZ

TENANT

Miss Tanya Brown

NAME AND ADDRESS OF LANDLORD

Mr William Shaw
Haycocks, 64 Baldock Street, Ware,
Hertfordshire, SG12 9DT

AGENT

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

RENTAL PERIOD

Yearly

DATE TENANCY COMMENCED

May 2014

DESCRIPTION OF PREMISES

Flatted dwellinghouse at The Old Schoolhouse, Blacklunans, by Blairgowrie, Perthshire, PH10 7JZ

SERVICES PROVIDED

None

TRIBUNAL MEMBERS

CHAIRPERSON

ORDINARY MEMBER (SURVEYOR)

ORDINARY MEMBER

Ewan Miller

David Godfrey

PRESENT RENT

£3,900.00

DETERMINED RENT

£6,000.00

DATE OF DECISION

12 April 2017

EFFECTIVE DATE

1 August 2017

E Miller

Chairperson of tribunal

Date

26/5/17

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

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

Chamber Ref: FTS/HPC/RS/17/0068

The Old Schoolhouse, Blacklunans, Blairgowrie, PH10 7JZ ("the Property")

The Parties:

MR WILLIAM SHAW residing at Haycocks, 64 Baldock Street, Ware, Hertfordshire, SG12 9DT ("the Landlord") represented by Mr McDuff-Duncan and Mrs Campbell of Elliot & Company W.S., Solicitors, 8 Charlotte Street, Perth PH1 5LL.

MS TANYA BROWN residing at The Old Schoolhouse, Blacklunans, Blairgowrie, PH10 7JZ ("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) 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 early May 2014 and the Tenant has been paying the sum of £325 per calendar month (£3900 per annum) since that date. On 25 January 2017, the Landlord's agents Elliot & Co. served a notice on the Tenant proposing an increase with effect from 1 August 2017 to a rent of £550 per calendar month (£6600 per annum). The Tenant responded using the prescribed form AT4 objecting to the increase and applying for the rent to be reviewed by the Tribunal. The Tribunal was satisfied that it had jurisdiction to deal with the application.

2. The Inspection

The Tribunal inspected the Property on 12 April 2017. The Tenant was present during the inspection. The Landlord was not present at the inspection but was represented by his agents Mr McDuffDuncan and Mrs Campbell.

The Tribunal noted that the Property was located in a rural and isolated position. The Property was accessed up a relatively steep track that was in poor condition. The Property, which was a detached cottage, primarily one storey and attic in height built around the turn of the last century, comprised a small entrance porch that led to a large lounge, a ground floor bathroom, kitchen/utility room and a bedroom. There were two further bedrooms and a shower room on the upper floor. The Tribunal noted that the entrance porch was in poor condition and that the windows in particular within the porch were needing attention and that the downstairs bathroom was very dated although it was still serviceable. The kitchen and upstairs bathroom were in good order, although these had been installed by the Tenant on her taking occupation. A number of the windows were in poorer condition, particularly those upstairs. The Property commanded panoramic views over the surrounding countryside.

3. The Hearing

Following the inspection the Tribunal held a hearing at the Angus Hotel, 46 Wellmeadow, Blairgowrie. The Landlord was again represented by Mr McDuff-Duncan and Mrs Campbell of Elliot & Co. The Tenant was present and represented herself.

The Landlord's agent gave some background to the matter in that the Tenant had previously been located at another property located nearby, also owned by the Landlord, . That property was in poor order and he had agreed to relocate the Tenant to The Old Schoolhouse. The initial rental of £325 per calendar month had recognised the difficulties the Tenant has suffered in the previous property but it had always been the intention to raise it to what the Landlord perceived as a proper market rental. The Landlord's agent acknowledged that the Tenant had done some works to the Property, particularly in relation to the kitchen and bathroom and accepted that whilst the original kitchen and bathroom were not beautiful, they were, nonetheless, serviceable. In terms of comparable properties, the Landlord had limited information to provide. They did however highlight another property that they had let at Craigton Farmhouse, which was in a similar locale. This was on the market at £550 and comprised a 3 bedroom, one public, one bathroom, dining kitchen property where 3 people had expressed an interest in taking it.

In summary, the Landlord's agent submitted that £550 per calendar month was an appropriate market rent for the Property in its current condition.

The Tenant submitted that £550 was an excessive rent. She particularly highlighted the driveway to the Property which was in poor condition. This meant that the Property was difficult to access and deliveries could not be

made to the Property. The Tenant often had to get the local farmer to take deliveries up to the Property in his tractor. The Tenant highlighted that she had maintained the Property to a high standard by carrying out various works such as the renovation of the kitchen and bathroom and installing lights and a new lock. She also highlighted the condition of the windows and also advised that the Property was very cold and the electricity bill ran at £600 per quarter. The Tenant was unable to produce evidence of comparable rents.

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 the 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 it was appropriate to make a determination and that a 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 first carried out its own investigations in relation to rentals of similar properties in the general area. The Tribunal noted, in particular, a lease at Lower Hillside, Bridge of Cally of a detached, 3 bedroom property with sitting room, kitchen and bathroom. This was in a less isolated location and had let at £525 per calendar month after a period of 56 days. The Tribunal also noted a further let of a 3 bedroom cottage near Bridge of Cally at £520 per calendar month. Whilst still in a rural area, these two properties were less remote than the Property. Accordingly the Tribunal was of the view that £550 per calendar month was at the top end of what the Landlord might reasonably expect to achieve.

The Tribunal then considered the specific circumstances and location of the Property. The Tribunal members had parked at the bottom of the driveway and had walked up to the Property. The driveway was a good distance in length and was steep and in poor condition. The Tribunal could readily envisage that in poorer conditions, particularly during the winter, the roadway would become virtually impassable and that this would have a detrimental effect on the letability of the Property. The Tribunal also noted that the

downstairs bathroom in the Property was very dated and that the windows in the Property were in poor condition. This would tend to suggest the Property was not energy efficient and, given its exposed location, this would also make it less attractive to other potential tenants.

On balance, the Tribunal was satisfied that whilst there were 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 34(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 1 August 2017, being the date proposed by the Landlord.

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.

E Miller

Signed Chairperson

Date 25/5/17

These are the photos taken on 12/4/17 and referred to in the foregoing decision of the Tribunal dated 25/5/17

E Miller

CHAIRMAN

Housing and Property Chamber First-tier Tribunal for Scotland



PHOTOSHEET



Property: The Old Schoolhouse, Blacklunans, Blairgowrie PH10 7JZ

Ref no: FTS/HPC/RS/17/0068

Tribunal: Ewan Miller and David Godfrey

Inspection: The property was inspected at 10.00 am Wednesday 12th April 2017.

Access: Ms Tanya Brown (Tenant) was present and provided access to the property.

Photographs

1. Front elevation.
2. Rear elevation.
3. Kitchen
4. Bathroom
5. Shower Room
6. Access Road



Rear elevation



Kitchen



Bathroom



Shower Room



Access Road

12th April 2017

E Miller

Chalumba