

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Rent (Scotland) Act 1984**

**Notification Of Decision**

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| <b>REFERENCE NO.</b> | <b>OBJECTION RECEIVED</b> | <b>OBJECTION</b> |
|----------------------|---------------------------|------------------|
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|                    |                  |        |
|--------------------|------------------|--------|
| FTS/HPC/RR/22/3189 | 5 September 2022 | Tenant |
|--------------------|------------------|--------|

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**ADDRESS OF PREMISES**

Flat 1/2, 456 Victoria Road, Glasgow, G42 8YU

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**TENANT**

Ms Jean Thompson

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**NAME AND ADDRESS OF  
LANDLORD**

Mr Peter Large, Ms Maria Lander  
Flat 0/1, 18 March Street, Glasgow,  
G41 2PX; Flat 0/1, 18 March Street,  
Glasgow, G41 2PX

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**DESCRIPTION OF PREMISES**

See statement of reasons

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**SERVICES PROVIDED**

None

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**TRIBUNAL MEMBERS**

|                                   |              |
|-----------------------------------|--------------|
| <b>CHAIRPERSON</b>                | Richard Mill |
| <b>ORDINARY MEMBER (SURVEYOR)</b> | Mike Links   |
| <b>ORDINARY MEMBER</b>            | N/A          |

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| <b>FAIR RENT</b> | <b>DATE OF DECISION</b> | <b>EFFECTIVE DATE</b> |
|------------------|-------------------------|-----------------------|
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|                 |                  |              |
|-----------------|------------------|--------------|
| £ 5,088.60 p.a. | 14 December 2022 | 28 July 2022 |
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# R Mill

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14 December 2022

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Date

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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 on an application under Schedule 5, paragraph 8 of The Rent (Scotland) Act 1984**

**Chamber Ref: FTS/HPC/RR/22/3189**

**1/2, 456 Victoria Road, Glasgow G42 8YU ('the Property')**

**The Parties:**

**Mr Peter Large and Ms Maria Lander, 0/1 18 March Street, Glasgow G41 2PX ('the Landlords')**

**Ms Jean Thompson, residing at 1/2, 456 Victoria Road, Glasgow G42 8YU ('the Tenant')**

**Tribunal members:**

**Richard Mill (Legal Member)**

**Mike Links (Ordinary/Surveyor Member)**

### Background

1. The tenant has occupied the property since 31 December 1985 and the tenancy is a regulated tenancy in terms of the Rent (Scotland) Act 1984. The current rent is £4,250 per annum. The landlords applied for the rental to be increased to £5,525 per annum. The Rent Officer registered a rent of £5,088.60 per annum with effect from 28 July 2022. The tenant has appealed the Rent Officer's determination to the First-tier Tribunal ('the 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.

3. The tenant made brief written representations on 2 September 2022 when she asked to appeal the Rent Officer's determination. No other written submissions or documentary evidence is relied upon by her.

4. On 11 November 2022 the tribunal advised parties that they had sourced the following rental information:

- Recent determination by the First-tier Tribunal for Scotland regarding property Flat 0/1, 17 Langside Road, Glasgow G42 7AQ. This is a regulated tenancy and is comprised of a maisonette on the ground and first floor of a modern block comprising a living room, kitchen/dining room on the ground floor and three bedrooms and bathroom on the first floor, extending to 89 square metres with gas central heating. Rent determined at £5,534.16 inclusive of services of £225.24, effective with effect from 13 February 2022.
- Rent register entry regarding property Flat 2/2, 474 Cathcart Road, Glasgow G42 7BY, being a traditional tenement comprising of living room, dining/kitchen, three bedrooms and shower room with central heating. Lease commenced 1 November 1983. Registered rent £5,972.55 inclusive of £59.04 services, effective from 3 July 2022.
- Rent register entry regarding property Flat 2/2, 82 Coplaw Street, Glasgow G42 7JG within a traditional tenement comprising of living room, kitchen, three bedrooms and bathroom with central hearing. Lease commenced 28 November 1998. Registered rent £5,660.24 inclusive of £59.04 services effective from 9 June 2021.

5. The landlord lodged detailed written representations on 17 November 2022. It was submitted that the property itself has a spacious three bedroom flat with a large living room and kitchen/dining room with a pantry, bathroom and a large entrance hallway with additional closet storage. It was submitted that the flat is conveniently located in direct proximity to Victoria Road shops, transport links including bus stops directly outside and the Queens Park Railway Station a short walk away. The property is in a desirable are of the South of Glasgow and benefits from double glazed windows in all street facing rooms. It was submitted in contradiction to the earlier statements made by the tenant that the property is in a good condition, meeting the repairing and tolerable standards. Though dated, the decoration of the flat is all in a reasonable condition, providing comfortable living conditions. An exception to this is the bathroom, which suffered from water ingress during a historical isolated incident, prior to the current landlords' ownership, which commenced after the tenancy commenced. Cladding has been removed by the tenant which has not since been reinstated. A complaint has made regarding the main kitchen light fixture reported to be defective and upon inspection the fitting has been removed and replaced by the tenant herself. It is accepted that there is one gas fire in the living room but that the tenant has the liberty to use additional auxiliary heating sources.

6. In the landlords' representations additional registered rentals of comparable properties were relied upon, these being situated at 1/2, 27 Cartvale Road, Glasgow G42 9TA (£5,267, effective 05/05/19, unfurnished, no central heating, no services); basement 33 Balvicar Street, Glasgow G42 8QU (£5,340, effective 26/05/21, unfurnished, no central heating, no services); 1/R, 86 Ledard Road, Glasgow G42 9SX

(£5,400, effective 26/07/21, unfurnished, no central heating, no services); and 3/2, 30 Boyd Street, Glasgow G42 8AW (£5,158.83, effective 18/10/22, unfurnished, no central heating, inc services of £101.40). Three open market rental properties, advertised in September 2021, April and September 2022 were also referred to.

### The inspection

7. At 10.00 am on 13 December 2022 the tribunal inspected the property. It was a dry and very cold winter's morning. The tenant was present at the inspection. The landlords did not attend. The tribunal was satisfied that the landlords had been given fair notice of the date, time and place of the inspection.

### Findings from inspection

8. The property is a first floor flat within a traditional Victorian sandstone built tenement with commercial properties to the ground floor. The flat is accessed via a common passage and stair with access controlled by an entry phone system. The property has one living room, one kitchen/dining room, one bathroom and three bedrooms. All the rooms are generously proportioned with the gross internal area is approximately 112 square metres. Two of the bedrooms are double, and one single. The property is situated in a densely populated area within the Southside of Glasgow and is surrounded by a mix of similar styles of housing and a large variety of mixed use commercial properties. The tenant has lived in the property for 37 years. The flat has been owned by a series of landlords, with the property being purchased by the current landlord in or about 2018.

9. The property benefits from double glazing throughout. There is no central heating. There is one modern mains gas fire in the living room. The property is generally in a basic but useable internal condition. The kitchen light was noted not to be working. This is the subject on ongoing discussion between the parties. The bathroom has a wooden frame affixed to the walls for plasterboard but this has been removed following an earlier leak and at places the original plaster is also missing with the brick wall being exposed. The bathroom is internal and there is no mechanical extraction fan.

10. The tenant has provided the carpets and other floor coverings throughout the property, together with all furniture and white goods. No services are provided by the landlords.

11. The tribunal noted at the inspection that there are smoke detectors in the living room and hallway, a heat detector in the kitchen and a carbon monoxide detector in the living room.

### The hearing

12. All parties participated in the teleconference hearing which was convened at 2pm on 13 December 2022. The tenant stated objection to the rent increase believing it not

to be fair given the condition of the flat, in particular the absence of central heating. She referred, as she does in her written appeal letter, to the fact that there is no central heating and no working light in the kitchen. She did not suggest an alternative annual rental figure supported by relevant comparisons, instead stating broadly that the increase was not fair. The landlords relied upon their detailed written submissions and defended the Rent Officer's determination. They made other oral submissions consistent with that position.

### The Decision

13. The Tribunal had the following documents for consideration:

1. The landlord's application for registration of the rent for the property, dated 20 June 2022.
2. The Rent Officer's notification of appeal, dated 2 September 2022.
3. ROCAS Rent Register page for the property.
4. The tenant's letter of appeal.
5. The landlord's detailed written submissions and attachments.

14. The tribunal obtained details of comparable registered fair rents of three bedroomed flatted dwellinghouses which were circulated to parties in advance of the hearing. These are as earlier stated.

15. The tribunal was particularly 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'. Also, section 48(2) requires the tribunal to 'assume that the number of persons seeking to become tenants of similar dwellinghouses 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.'

16. 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. 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.

## Registered Rents

17. The tribunal identified three potentially comparable properties in the G42 postcode area with registered fair rents. Each of those properties is a three bedrooomed flatted dwellinghouse, so they are comparable though also have central heating.

18. The tribunal also had regard to entries in the Rent Register relied upon by the landlords. None of these properties have central heating.

19. In Wright v Elderpark Housing Association [2017] CSIH 54 Lord Drummond Young said:

"..., it will frequently be appropriate for the rent officer or committee to begin with the rents that have been registered for comparable properties falling under Part VI of the Act (housing association properties), and to use the private rented market as a cross-check, making allowance for any scarcity in accordance with subsection (2) of section 48".

20. Registered rents of other comparable three bedroom properties in this area of Glasgow is in the region of £5,000 to £6,000 per annum, depending upon the particular size, location and condition. There are ample comparisons available. It is a matter of agreement between the parties that the condition of the property is as the tribunal found at the time of their inspection and which is referred to earlier in this decision.

## Market Rents

21. The Tribunal also considered the evidence of market rents. The landlord's submissions comprised evidence of three relevant properties within Annex B of the submissions. The first is a three bedroom property on Dixon Avenue G42 marketed at £1,100 per month; a further three bedrooomed property on Dixon Avenue G42 advertised at £1,095 per month; and finally a three bedroom flat on Annette Street G42 advertised at £1,200 per month.

22. It was noted by the tribunal that whilst in the same postcode area, all three of these properties are significantly better decorated than the let property between the parties. They are also in more desirable quieter residential streets. Nonetheless the comparisons available do demonstrate that open market rents are considerably higher than registered fair rents for regulated tenancies.

## Scarcity

23. When the tribunal fix a fair rent they must do so on an assumption that the number of persons seeking to become tenants of similar properties in the locality of the Property is not substantially higher than the number of similar dwelling houses which are

available for lease. Case law has determined that when considering the question of scarcity, a large area must be considered to avoid an increase in demand being caused by specific local amenities. The tribunal considered it reasonable to consider the Southside of the City of Glasgow when assessing the question of scarcity. The parties did not make representations to the tribunal on the question of scarcity.

24. The tribunal had no evidence before that indicated there was not a reasonable balance between supply and demand in the area and decided that scarcity was not, therefore, an element which affected the rental levels.

#### Return on the Capital Valuation

25. The Tribunal was mindful that the capital valuation method has been described as notoriously unreliable 'normally to be used only as a last resort' (Western Heritable Investment Co Ltd v Husband 1983 SC (HL) 60, 73). Given the ample available evidence of comparable fair rents the tribunal concluded that it was appropriate to proceed to assess the fair rent of the property without using the capital valuation method.

#### Conclusions

26. The tribunal are mindful that fixing the rent is a composite task and consequently after consideration of all relevant factors the tribunal decided there was no evidence to support the appeal by the tenant.

27. The tribunal found that the comparable registered rents for this particular property, taking account of the specifics of the size, location and condition, are in the region of £5,400 to £5,500 per annum. Deducting a figure of around £300 per annum to reflect the absence of central heating leads us to find that a fair rent for the property is fairly stated at £5,088.60 per annum, as determined by the Rent Officer. There is no information from the Rent Officer as to how this figure was calculated but the tribunal is satisfied that this figure is not excessive and broadly reflective of all relevant considerations.

28. In reaching this decision the tribunal have had regard to all the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.

29. The tribunal would encourage parties to discuss further the landlords' responsibility to repair / replace the kitchen light and the bathroom.

30. This decision takes effect from 28 July 2022.

# R Mill

Richard G Mill  
Chairperson

14 December 2022