

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision with Reasons in respect of a referral to the First-tier Tribunal for Scotland Housing and Property Chamber for a Determination of Rent under Sections 24(3)(a) and 25(1) of The Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/20/2577

Property: 61 Alison Street, Kirkcaldy, Fife KY1 1TT (“the Property”)

Parties:

**Ms Sharon Nicolson, 61 Alison Street, Kirkcaldy, Fife KY1 1TT (“the Tenant”)
and**

Mrs Lucy Fraser, 19 Craigearn Place, Kirkcaldy, Fife KY2 6YT (“the Landlord”)

**Tribunal members: George Clark (Legal Member/Chair) and David Godfrey
(Ordinary Member/Surveyor)**

Background

1. The current rent for the Property is £350 per calendar month (£4,200 per annum) and it is a statutory Short Assured Tenancy. By way of a Form AT2 Notice, the Landlords proposed a new rent of £435 per calendar month (£5,220 per annum). The proposed rent was to take effect from 20 April 2021. The Tenant referred the Notice to the First Tier Tribunal for Scotland Housing and Property Chamber (“the Tribunal”) for a determination of rent under Section 24 of the Housing (Scotland) Act 1988 (“the 1988 Act”). The Tenant’s Notice of Referral (AT4) was received on 11 December 2020, before the

beginning of the period to which the proposed new rent related, as required by Section 24(3) of the 1988 Act.

Written Submissions

2. The Tenant did not make any written submissions to the Tribunal, apart from statements in the Form AT4 application that she was working with the Landlord regarding an issue with the central heating boiler. She provided the Tribunal with a copy Short Assured Tenancy Agreement which commenced on 30 March 2009 at a monthly rent of £350. She stated that she wished the rent to be in line with the Local Housing Allowance for this size of property.
3. The Landlord made written representations to the Tribunal on 27 August 2021. The representations included details of a number of other two-bedroomed properties available for let in Kirkcaldy and confirmation that the Local Housing Allowance for Fife is currently £5,684.64 per annum.

The Inspection

4. The Tribunal inspected the Property on the morning of 28 September 2021. The Tenant was present at the inspection. The Landlord was represented at the inspection by her husband, Mr Peter Fraser.
5. The Property is a first floor flat in a two-storey end-terraced block containing two flats, erected in the 1930s. The accommodation comprises a hall, living room, 2 bedrooms, kitchen and bathroom. The kitchen units and appliances are dated. The bathroom is also dated, having a bath with an electric shower over, wash hand basin and toilet. There is gas central heating, with a back boiler and the windows are double glazed u-pvc. The Property is in poor decorative order and is in need of general upgrading. There is a shared common green to the rear. The gross internal floor area is 63 square metres or thereby. The Tenant stated in her application that the Property was let unfurnished, apart from white goods, and one bed, but this was disputed by

the Landlord, who, in her written representations, provided a list of items of furniture that, she contended, had been provided at the outset of the tenancy. No services are provided by the Landlords. On-street parking is available outside the Property. It is located reasonably close to shops and other amenities of Kirkcaldy town centre.

The Hearing

6. Following the inspection, the Tribunal held a hearing later that day by means of a telephone conference call. The Landlord was present, with her husband as a supporter. The Tenant was not present or represented.
7. The Landlord was happy to ask the Tribunal to rely on her written representations as regards rental comparisons but, to counter the comment of the Tenant in the application, she stated that there was no problem with the central heating. An engineer had called at the Property and had ascertained that the Tenant had turned the thermostat down to zero.
8. The Landlord then left the conference call and the Tribunal considered all the evidence before it, including comparative rental evidence it had obtained from its Members' own research.

Reasons for Decision

9. The Tribunal had identified a number of 2-bedroom properties currently or recently advertised for let in Kirkcaldy. The average monthly rental for these properties was £525, but the descriptions in the advertisements indicated that they had modern kitchens with integrated appliances, were recently decorated and, in some cases, new carpets and floorcoverings. There were wide variations in the rents for comparable properties offered by the Landlord in her written representations, depending on the level of specification. The best comparisons, in the view of the Tribunal, were three properties with monthly rents between £450 and £525.

10. Using its own knowledge and experience and having regard to the information available, the Tribunal considered that the market rent for a basically furnished 2-bedroom property in the locality of the present Property would be in the region of £500-£525 per month (£6,000 - £6,300 per annum). The present Property was, however, in noticeably poorer condition than appeared to be the case for those presently or recently advertised and the Tribunal took that into account in arriving at its Decision. In particular, the condition of the kitchen and bathroom, the age of the carpets and the state of decoration required the Tribunal to apply a significant discount in the present case.

Decision

11. Having taken all factors into account the Tribunal decided that, in terms of Section 25(1) of the Housing (Scotland) Act 1988, the rent at which the property might reasonably be expected to be let, in its present condition, in the open market by a willing landlord under an Assured Tenancy was £425 per month (£5,100 per annum). The increased rent proposed by the Landlord was marginally higher than this, as was the current Local Housing Allowance, but the Tribunal felt that the figure at which it had arrived was a fair reflection of the condition of the Property.

12. The Tribunal decided that its Decision should take effect from 20 April 2021.

G.Clark

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(Legal Member/Chair)

Date: 28 September 2021