

Housing and Property Chamber

First-tier Tribunal for Scotland



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.

Chamber Ref: FTS/HPC/RR/20/1738

Property: Flat 2/R, Left Stair, Stevensons Building, Susannah Street, Alexandria G830NF ('the Property')

The Parties:

Mrs Christine Buchanan, Redgauntlet, 14, Graham Crescent, Cardross G82 5JHL ('the Landlords')

Mr & Mrs George Grace, residing at the property ('the Tenant')

Tribunal members:

David Preston (Legal Member/Chairperson) and Mike Links (Ordinary/surveyor Member).

BACKGROUND

1. This was a reference to the First-tier Tribunal for Scotland, Housing & Property Chamber ("the tribunal") for determination of a fair rent under the Rent (Scotland) Act 1984 by the tenant in relation to the property.
2. By application made on 14 July 2020, the Landlord applied to the Rental Valuation Office, for registration of rent for the property, seeking a rent of £2160pa (£180pcm). A rent of £1876pa (£156.33pcm) had previously been registered on 1 August 2017. On 14 August 2020 the Rental Valuation Officer determined a rent of £2160pa (£180pcm) for the property to be effective from 14 August 2020. On 19 August 2020 the tenant intimated an appeal against that determination.
3. Although the effective date of the registered rent was 14 August 2020 there had been unavoidable delays to carrying out the necessary inspection as a result of the Covid pandemic restrictions.

THE EVIDENCE

4. The tribunal had the following documents before it:
 - Form RR1 dated 13 July 2020.
 - Rent Register (ROCAS) documents,
 - Email dated 19 August 2020 from the tenants intimating the appeal.
 - Representation on behalf of the landlord dated 17 August 2021.

The tribunal also had details of comparable properties in the G83 area of Alexandria and the locality. The tribunal members took account of all these documents and used their knowledge and experience in determining a fair rent.

THE INSPECTION

5. David Preston, Chairman, and Mike Links (Surveyor), Ordinary Member of the Tribunal inspected the property on the morning of 20 October 2021 in the presence of the tenants. The landlord was neither present nor represented at the inspection.

DESCRIPTION OF THE DWELLINGHOUSE

6. The property under inspection, which extends to approximately 85 square metres or thereby forms part of a three storey tenement building built approximately 125 years ago. The front and rear elevations are of solid red sandstone 600mm thick, and the roof is pitched and slated. Gutters and downpipes are mainly cast iron and pvc. The building has two entrances to the upper floors, the right hand entrance containing 6 5 flats, whilst the left entrance is by means of a pend with a rear open stair to the first floor. It is understood there are 5 flats in this section of which the subject flat is located on the top floor, right. In addition, this section contains a public house and a shop at ground level. The accommodation of the flat is Entrance Vestibule, Hall, Living Room, 2 Bedrooms, Kitchen with small Dining Room off, and Bathroom/WC. There is a gas fired central heating system with radiators throughout. Hot water is by means of the gas boiler located in a built in cupboard in the Dining Room. There are UPVC framed double glazed windows to the front elevation apartments and replacement timber framed single glazed windows to the rear. The Kitchen and Bathroom have been modernised some years ago. Likewise, the wiring has been upgraded, though further improvements are needed. Generally, the external fabric is worn and would benefit from refurbishment. The rear common court is poorly maintained, although the form RR1 says that there is no garage, garden, yard or other separate building or land included in the tenancy.
7. The ROCAS page refers to the allocation of liability for repairs as per the missives of let, subject to the landlord's repairing obligations under the Housing (Scotland) Act 2006. However, the tenants advised that there is, and has never been any missives of let. The register should be amended accordingly.
8. The tenants advised that they had occupied the property for over 45 years. They had carried out a number of improvements to the property. They had: decorated throughout; removed fireplaces from the living room and bedrooms; removed a coal store from the kitchen area; fitted out the kitchen; modernised the bathroom; and carried out some electrical works.
9. The tenants complained that the increase which had been applied to the rent on this occasion was, in their view excessive. It represented a 15% increase. In past years the rent increase had been considerably lower, and they could not see any reason for such a high increase on this occasion. They commented about the condition of the rear yard and the poor decoration of their common stair and landing accepted that this was a matter outwith the remit of this tribunal and could have no bearing on the level of rent.
10. The tenants advised that they had been paying the increased rent since August 2020.

11. The property is situated adjacent to the town centre and is well served with local amenities.

THE HEARING

12. Neither the tenants nor the landlord attended the hearing

DECISION AND REASONS

13. Section 48 of the Rent (Scotland) Act 1984 provides that:

(1) In determining for the purposes of this part of the Act what rent is or would be a fair rent under a regulated tenancy of a dwellinghouse, it shall be the duty of the rent officer or, as the case may be, of the Rent Assessment Panel (now the First-tier Tribunal for Scotland, Housing & Property Chamber), subject to the provisions of this section, to have regard to all 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 dwellinghouse in question and to its state of repair and, if any furniture is provided for use under the tenancy, to the quantity, quality and condition of the furniture.

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwellinghouses in the locality on the terms (other than those relating to the rent) of the regulated tenancy is not substantially greater than the number of such dwellinghouses in the locality which are available for letting on such terms.

14. The tribunal was mindful of its obligations in terms of section 48 of the Rent (Scotland) Act 1984, to fix a rent that is or would be a fair rent under a regulated tenancy. While having regard to the determination of the Rental Valuation Officer and the rent proposed by the landlord, it must apply its own determination based on the evidence available to it.

15. In Scotland there are three accepted methods of determining a fair rent. These are:

(a) determining a fair rent by having regard to registered rents of comparables houses in the area;

(b) taking market rents and then discounting for any scarcity element and making any appropriate disregards as required by section 48(3);

(c) calculating the appropriate return based on capital value of the property, taking into account the element of scarcity.

None of these methods is regarded as the primary method.

16. The tribunal noted the rent proposed by the landlord in its application and as specified in the appeal was £2160pa (£180pcm). This figure had been accepted by the Rent Registration Officer and registered with effect from 14 August 2020. The tribunal was not provided a basis for the calculation of such a rent.

Comparable Registered Rents

17. The tribunal noted from the Register of Fair Rents for the Alexandria locality of the G83 area that, apart from the subject property there was only one registered rent post 2012 namely 346 Main Street, Alexandria registered on 21 October 2020; Lower Villa purpose built flat dating from pre 1919 on the ground floor comprising 3 rooms, kitchen and bathroom, with garden at a rent of £3900pa, effective from 18 December 2020. The tribunal noted that the website claims that the register was last updated on 4 March 2020.

Market rents

18. The tribunal gave consideration to open market rents in establishing a fair rent for the property. Neither party had provided the tribunal with specific information or evidence about rents (either in the open market or under registered rents terms) which could be used as comparables. However as indicated, the tribunal obtained details of comparable properties through its own research of properties for rent currently on the market.

19. In particular, the tribunal noted the following properties in Alexandria:

	Address	Description	Date added	Rent
1.	King Edward Street	2 bed maisonette	30.9.21	£6900pa (£575pcm) (agreed)
2.	Munro Street	2 bed flat	30.9.21	£5400pa (£450pcm) (asking)
3.	Colquhoun Drive	2 bed flat	29.9.21	£5940pa (£495pcm) (asking)
4.	Broomley Crescent	2 bed flat	08.9.21	£6900pa (£575pcm) (agreed)
5.	Hillside Avenue	2 bed flat	31.8.21	£6600pa (£550pcm) (agreed)
6.	Martin Gannon Court	2 bed flat	1.10.21	£5300pa (£450pcm) (agreed)

20. It is assumed that these properties are modernised and double glazed throughout with floorcoverings and modern facilities.

21. It was also noted that the properties previously identified by the tribunal at: 1st floor flat, Susannah Street comprising 3 rooms, kitchen and bathroom (£525pcm; £6300pa); and Upper Flat, Leven Street, Alexandria comprising 3 rooms and dining kitchen and bathroom (£550pcm; £6600pa) were no longer on the market. It is not known whether they had been let at the asking rent or withdrawn from the market. Generally, these properties were double glazed with central heating, floor coverings and appliances.

22. The tribunal using its knowledge and expertise of market rents in the area and taking account of the fact that the property is unfurnished with no floorcoverings or white goods

considered that a flat similar to the subject property enjoying the amenities provided in a similar area would be likely to achieve an open market rent of £6000pa (£500pcm).

Capital value

23. No evidence was produced in relation to capital values or investment returns.

24. Asking prices for current properties for sale in Alexandria:

- a. 2/1 Stevenson Building: sold May 2021. 3 bedroom flat described as being the entire top floor. Gas CH; DG. Sale price £85,000.
- b. Upper Bridge St, Alexandria: 2 Bedroom and open plan LR/Kit. Ground flat. Gas CH; DG. Offers over £69,500+; (Under Offer).
- c. King Edward Street, Alexandria: 2 bed 1st floor & attic duplex flat; Gas CH. 81 Sq M. Offers over £69,995 - now sold.
- d. Main St Alexandria: 2 Bedroom 1st floor flat; CH; DG; offers over £66000. Home Report value - £75000.
- e. Stevenson Building, Susannah St: Ground floor flat; 2 bedrooms; GCH; D/G. £65,000.
- f. Avenue Place, Alexandria: 2 bed 1st floor and attic duplex flat: Gas CH; DG. Advertised March 2021 at offers over 62,500; Now sold.

25. The tribunal was mindful that the capital valuation method has been described as notoriously unreliable and is generally only used as a last resort. However, the tribunal decided to look at values in view of the lack of registered rents in the area and the comparatively small number of comparable open market rents as a check. Based on these values, the tribunal considers that a capital value of the subject property would be in the region of £70,000. Allowing for a return of 5% in general terms and without adjustment for repair, management and insurance and without allowing for deductibles in respect of modernising the property, this would result in an approximate rental value of £3500pa (£291.66pcm).

26. The tribunal was of the view that there was no scarcity in relation to properties similar to the property in this locality.

Assessment

27. The tribunal took all of these values into account and, using its experience, considers that a fair rent for the property in a modernised condition would be £4750pa (£395pcm).

Deductions

28. The property was let as unfurnished. It did not benefit from any white goods. The property had partial double glazing. It had been decorated by the tenants and the floor coverings had all been supplied by them. They had carried out improvements by: removing a coal bunker and range from the kitchen; installed a fitted kitchen; modernised the bathroom; and carried out work to the electrics. The tribunal noted that the landlord had carried out improvements by installing central heating and partial double glazing to the front of the property. The tribunal therefore considered that reasonable deductions were required to reflect the difference between the property and the market rent for a flat of the same size and in the same location.

29. The tribunal considered that the appropriate allowance for the cost of: carpets and floor coverings; appliances and white goods; double glazing to the rear; and decoration, taking account of the size of the property justified a reduction from the market rent of £2000pa (£166pcm). In arriving at these figures, the tribunal had regard to the adjustments for such provision as assessed by the surveyor members of the tribunal, adjusted appropriately, to reflect the details of the property.
30. Accordingly, taking into account all the relevant factors as described above, the tribunal took the view that the appropriate fair rent for the property in its current condition would be £2750pa (£229pcm).
31. The tribunal recognises that this represents a significant increase on the previous rental but considers that this can result from the fact that the tenancy has subsisted for over 45 years and unless realistic increases are maintained throughout, the rental level can fall significantly behind the fair rent. It is noted that the landlord accepted the rent officer's assessment of £2160 and she is not obliged to apply the full increase.
32. Whilst it forms no part of the jurisdiction of this tribunal it was noted that the fire, smoke and carbon monoxide detection systems require to be upgraded to comply with current and incoming Scottish Government Regulations.
33. The decision of the tribunal was unanimous and will take effect from 1 December 2021

D Preston

28 October 2021