



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under paragraph 10(1) of Schedule 5 to the
Rent (Scotland) Act 1984**

Chamber Ref: FTS/HPC/RR/25/4178

Re:

Property at 2 Craigmyle Cottages, Torphins, Aberdeenshire, AB31 4NJ
("the Property")

Parties:

Craigmyle Estates Limited, Craigharr House, Keithhall, Inverurie, Aberdeenshire,
AB51 0LN
("the Landlord")

Robert Gallagher, 2 Craigmyle Cottages, Torphins, Aberdeenshire, AB31 4NJ
("the Tenant")

Tribunal Members:

Iain MacRae (Legal Member)
Robert Buchan (Ordinary Member)

Representation:

Tenant: Michael Bradley
Landlord: Dr Gordon Drummond

Decision

1. The Tribunal determines, in terms of Section 48 of the Rent (Scotland) Act 1984 (The 1984 Act) that a fair rent for 2 Craigmyle Cottages, Torphins, Aberdeenshire, AB31 4NJ is £7,380 per year, (£615 per month).
2. The decision of the Tribunal is unanimous.
3. In accordance with section 50(4) of the 1984 Act the registration of this rent takes effect from 30 September 2026, the date of this decision.

Background

4. An application for a determination of a fair rent under the Rent (Scotland) Act 1984 (“**the 1984 Act**”) was received by the Tribunal on 12 December 2025. The applicant is the Landlord. The tenancy is a regulated tenancy under the 1984 Act. The rent under the tenancy is registrable under sections 46 to 50 of the Act.
5. Following the Rent Officer serving a notice on the applicant stating that he proposes to issue a certificate specifying a fair rent the applicant requested in writing that the assessment should be referred to the First-tier Tribunal.
6. Parties were invited to attend an inspection at the property at 10.30am followed by a hearing at 11.30am at Aberdeen Sheriff Court on 17 March 2026. In advance of the hearing the Tribunal issued the parties a table of comparable registered rents taken from the Fair Rent Register, a list of properties available locally on the open market for rent; and the CityLets Quarterly Report for Q3 2025. Citylets advertise themselves as having the only reports providing up to date information on the Scottish residential lettings market. Their quarterly reports have been found useful in providing statistical information on the rental market.

The inspection

7. The inspection took place at 10.30am. The Tenant allowed access. His daughter was present. The Landlord arrived shortly thereafter. He was present throughout the inspection. It was explained that the members would simply inspect the premises and any discussion would take place at the hearing later.

The hearing

8. The procedure to be adopted at the hearing was explained. Both parties would be able to present their case and ask the other questions. The Tribunal may also have questions. The Tribunal confirmed that it was required to fix the rent based on the concept of a fair rent and explained the legal definition.

The Landlord

9. Notwithstanding the application submitted, the Landlord was seeking a rent of £700 per month. The Landlord has a valuation from Shepherd, Surveyors, from 2025 providing a rent for the property at £700 per month and the adjoining property, Number 1, at £800pm. The rent proposed by the Rent Officer is £7,380 per annum (£615 per month). The range of registered rents in the area provided by the Tribunal is £6,750 to £7,320pa (£562 to £615pm). Properties being advertised for rent in the area included a one bedroom cottage (half the size) at £550pm; a three bed bungalow at £1,400pm and a two-bed flat at £1,100pm. Although these are not comparable, they do illustrate that £700 a month for the property is not out of line with rents achieved in the Torphins area.
10. The most relevant rent is the £830 per month achieved for the adjoining property, No 1. This is an open market rent achieved at arm's length.
11. Any deduction for condition must be evidence based.
12. The Tenant's submission was based on the Tenant's personal circumstances. Whilst those were not disputed, they fell to be disregarded as required in S48 (1) of The Act. There was a suggestion that the Landlord had failed to upgrade the property but there had been work carried out after an escape of water in 2018.
13. In relation to the comparables put forward by the Tribunal these were not like for like but do support that a rent of £700 a month for a rural cottage can be achieved. The registered rent comparables should be used as a cross check on the reasonableness of a fair rent rather than to calculate an average and apply that. The CityLets Report is of limited use in assessing a fair rent in a rural location.

The Tenant

14. Mr Bradley had made written submission on behalf of the Tenant. The property had never been modernised. There is only a coal stove for heating. Poor insulation means the fuel bills are high. It was suggested the Tenant at No. 1 worked for the landlord. If the rent is higher that reflects its fully modernised condition and central heating. Mr Bradley spoke on behalf of the Tenant. He

narrated the history, the tenant's personal circumstance, and the unhappy situation between the Landlord and the Tenant which had endured for a number of years. He referred to a court action between the parties in 2013/2014 relating to access to the courtyard. All of the information he gave was personal to the tenant. He gave no information that would assist the tribunal in discharging its duty.

Findings in Fact

15. The applicant is the Landlord in respect of a dwellinghouse at 2 Craigmyle Cottages, Torphins, Aberdeenshire, AB31 4NJ (the property).
16. The parties entered into the tenancy prior to 1984. The tenancy is a regulated tenancy under the 1984 Act.
17. A rent of £6,600 was registered in respect of the property following a decision of the First-tier Tribunal on 2 May 2022
18. The appellant made an application for registration of a rent, dated 7 July 2025, on the tenant under Section 46 of the Rent (Scotland) Act 1984. The application was received by Rent Service Scotland on 16 July 2025. The rent the landlord wanted registered as a fair rent was £9,960pa (£830pm)
19. A rent of £7,380pa (£615pm) in respect of the dwellinghouse was registered by the rent officer on 2 September 2025, effective 4 October 2025
20. By written notice dated 22 September 2025 the landlord appealed against the registered rent.
21. The property forms part of a converted mid-19th century steading building in a rural location about one mile to the east of the village of Torphins. Access from the public road is along a rough and very badly pot-holed track of about 250m in length. Pedestrian access into the Property is from the track, with a path leading over the garden and into the entrance porch which adjoins the property.
22. The property is semi-detached, single storey, stone built with a slated roof. The conversion was undertaken in the 1980s. The attached dwelling (No 1 Craigmyle Cottages) was extensively refurbished in 2014. The roof appeared in good condition, wind and watertight, although some slates were noted to be missing.
23. To the west of the property is the courtyard of the steading, which has parking facilities. The tenant has no right or title to access or use the courtyard area. There is no dedicated parking area as such for the property and cars are parked

on the gap formed by the wide verge between the boundary wall and track outside the property.

24. The property faces onto a garden area to the east. The garden slopes downhill from the property.
25. The accommodation consists of three bedrooms, living room, kitchen and bathroom. With the exception of the kitchen, it is double glazed and has solid fuel heating. The Landlord installed new light fittings throughout the property in 2018 along with a new fuse box, and hard wired smoke, heat and carbon monoxide detectors. The property has a gross internal floor area of about 87 square metres.
26. The entrance porch is timber framed. There was evidence of previous water ingress however damp readings taken showed it to be dry. There is significant rot to the window and door frames. The porch steps were deteriorating. The living room has timber-framed double glazed windows facing the garden. There is a stove in the living room which provides heat and hot water to the radiators. This was installed by the Tenant. The carpet was also supplied by the Tenant. The room has painted woodchip wallpaper
27. The kitchen is accessed from the living room. It is a small room which faces the courtyard. The fitted kitchen units and workspaces were installed by the Landlord in 2018 along with an integrated hob, oven and fan. The kitchen door was installed by the Tenant. There is a radiator and a modern hot water cylinder with immersion heater which was installed by the Landlord. The flooring is laminate, provided by the Landlord.
28. The Tenant supplied the second hand bathroom suite and electric shower, which were installed by the Landlord. The Tenant installed the ceramic tile flooring. The bathroom has a window facing on to the courtyard and a radiator. The main bedroom window showed signs of deterioration, with rot evident to timber internally and misted panes.
29. The landlord does not provide any furniture under the tenancy.
30. The property previously had a large double bedroom facing south, however this was reconfigured by the landlord to create a small single bedroom (floor area of 6 square metres) and double bedroom, along with an extension to the hallway. Both rooms have timber framed double glazed windows and painted woodchip wallpaper. The carpets in the bedrooms were supplied by the Tenant.

31. No maintenance or upgrading has been carried out on the property since the last fair rent determination.

The law

32. In determining an appeal against a rent registered by the Rent Officer the Tribunal must determine for itself what rent is or would be a fair rent under a regulated tenancy of the property in question. If the Tribunal determines that the rent registered by the Rent Officer is a fair rent then it must confirm the rent but if it takes the view that the rent so registered is not a fair rent, then it must determine the fair rent for the property in question without being bound by the Rent Officer's figure.
33. In determining the fair rent the Tribunal is required to strike an equitable balance between the interests of a Tenant and Landlord respectively. In striking that balance the Tribunal is obliged, under section 48(1) of the Rent (Scotland) Act 1984, to have regard to all 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 under the tenancy to the quality, quantity and condition of the furniture.
34. However, in determining the fair rent the Tribunal is obliged under section 48(2) of that Act to assume that the number of persons seeking to become tenants of similar properties in the locality on the terms (other than those relating to rent) of the tenancy is not substantially greater than the number of dwellinghouses in the locality which are available for letting on such terms. (This is often referred to as "scarcity")
35. The Tribunal is also obliged to disregard any improvement or the replacement of any fixture or fitting carried out, otherwise than in pursuance of the tenancy, by the Tenant or any predecessor of his under the tenancy.

36. The Tribunal must disregard personal circumstances, including the Tenant's ability to pay the rent and the assets or financial position of the Landlord; any improvement or the replacement of any fixtures or fittings carried out, otherwise than in pursuance of the tenancy, by the Tenant or any predecessor under the tenancy.

Reasons for the decision

37. There are three relevant methods of assessing a fair rent in Scotland:
- (a) Having regard to registered rents of comparable dwellinghouses in the area;
 - (b) Taking market rents of comparable properties and deducting an amount in respect of improvement and the like which requires to be disregarded and an amount if the market rents did not reflect the assumption as to demand not being substantially greater than supply;
 - (c) Calculating the appropriate return based on the capital value of the property.
38. None of these methods is the primary method. The task of assessing a fair rent is a composite task which takes account of the methods of assessment and the appropriate method depends on the facts and circumstances of each case. The Tribunal also considered the observations of the Lord President in *Western Heritable Investment Co Ltd v Hunter* (2004) and also the case of *Wright v Elderpark Housing Association* (2017), which requires the Tribunal to proceed on the best available evidence and use the other evidence as a cross check, where possible.
39. There is no public register with details of open market rentals in Scotland and valuation is largely by evidence of advertised rentals in the area and the application of the knowledge and experience of the Tribunal Members. In the case of fair rent assessments there is a publicly available register of rents of regulated tenancies but with limited information as to size and no information as to condition. The rent officer provided no detail of any comparisons used in reaching the assessed rent. Accordingly, the Tribunal cannot analyse the rent officer's assessment.

40. Accordingly, the assessment by the Tribunal is necessarily based on taking what evidence is available and adjusting as best as possible for the differences in age, style, accommodation, floor area and any other relevant factors, such as location, condition, garden, garage, amenity etc, to arrive at a valuation.
41. The Tribunal had before it the previous decisions from the Housing and Property Chamber in 2012 (Chamber Ref: RAC/AB31/866), 2015 (Chamber Ref: PRHP/RR/15/0204), 2018 (Chamber Ref FTS/HPC/RR/18/2604) and 2022 (FTS/HPC/RR/21/2621). It had been explained to the parties that this was not a review of the previous decisions. However, one matter did arise which causes the making of a different finding in fact than had previously been made. Parties agreed that it was the Landlord who had reconfigured the large bedroom to create a small single bedroom (floor area of 6 square metres) and double bedroom.
42. The Tenant did not provide any evidence of rental values in the area in opposition to the claimed rent.
43. The Landlord had referred to a report from Shepherd. He had it with him. He offered to make it available to the Tribunal members to view but not the Tenant. On the basis that natural justice requires that both parties are aware of the other's submissions and evidence the Tribunal declined to consider the report. It may well have contained other irrelevant or financially sensitive information, but it would not have been difficult for the Landlord to have either redacted the report or obtain a report from Shepherd dealing only with the question of the fair rent for the property. As it is the Tribunal has no understanding of the basis upon which it is stated that the report suggests a rent of £700 a month.
44. Parties were at loggerheads as to whose fault it was that access had not been obtained to carry out improvements or why no upgrades had been carried out. It is not the function of the Tribunal to adjudicate on these matters. What was agreed was that no works had been carried out on the property since before the

last fair rent was fixed. The Tribunal is required to assess a fair rent for the property as it is when inspected and not how it might have been.

45. The Tribunal considered the open market rent achieved for No. 1. That was an open market rent for a property in a much better condition, having been fully renovated. The landlord advised that it let on the open market for £830 per month (£9,960 per annum). This is a modernised property, marginally smaller – 83 sq.m. According to the Energy Performance Certificate. What was also of importance is that No. 1 benefited from access to the courtyard for parking and had use of part of the outbuilding for a garage. All of these factors would have to be allowed for in arriving at a comparable level of rent for No 2 before considering the question of a balanced market. However, the let of number 1 does reflect the location and any impact of the poor access road.
46. To be comparable to No 1, or any other open market rental, the subject property would require extensive upgrading and repair, including repairs and improvements in order to meet the repairing standard. Heating, bathroom, electrics, décor, floor coverings, window replacement and repair of the porch and steps all as have previously been highlighted. These are significant costs. Neither party provided any guidance as to what these costs might be. The Tribunal therefore have to use its general knowledge and judgement to estimate what these costs might be and bearing in mind the life span of these costs and the appropriate yearly discount that might give a guide as to what adjustment should be made. This is necessarily a subjective calculation. The lack of parking in the courtyard and garage would also have to be taken into account.
47. The most significant cost would be replacement of the windows, including in the porch, which also requires significant repair of rotten woodwork. The cost of double glazed windows has risen significantly partly due to being of better quality and partly due to the higher thermal requirements, but they have a longer life span. The Tribunal estimate the cost of replacement of the windows including the repair of the porch to be £12,000 with a lifespan of 25 years. However, this would not be comparable to No 1 in that the Energy Performance certificate shows the double glazing of No 1 to rate only 2 stars out of 5, suggesting that

the windows are dated and so, to be comparable, half of the replacement cost should be used.

48. The cost of a comparable central heating system and electrical improvements are estimated at £8,000 with a lifecycle of 20 years. However, there is a heating system in place albeit solid fuel, changed by the Tenant, and so the Tribunal would estimate a reduced cost for comparable purposes of £5,000.
49. It was advised that No 1 was in a reasonable state of décor and had floor coverings. Décor is normally the responsibility of a tenant but to be comparable the costs of upgrade to the décor and floor coverings would need to be included and is estimated at £6,000 with a lifecycle of 10 years.
50. The cost of upgrading the bathroom is estimated at £5,000 with a lifecycle of 15 years.
51. The lack of formal parking and the use of the outbuilding for a garage was given a deduction of £500 by the last Tribunal and it is not proposed to change that estimate in this assessment.
52. These adjustments give rise to a comparable rent, before the balanced market assumption, of £5,600. This is lower than previously assessed, but is to be expected, reflecting the widening gap between the condition of the property and modern standards.
53. The Tribunal then considered whether the statutory assumption under section 48(2) of the 1984 Act of demand for tenancies of similar properties in the locality on the same terms (other than rent) not being substantially higher than their availability (absence of scarcity) was justified. The Tribunal using its knowledge and experience concluded that the locality for the purpose of the assumption to be Aberdeenshire which would include the city of Aberdeen. The city has been experiencing a subdued oil and gas sector, and it was noted in the Citylets quarterly report that over 50% of rentals in Aberdeen are taking longer than a month to let. The Tribunal had found little difficulty in finding local lets being

advertised. The Tribunal considered that the assumption of absence of scarcity was justified and no discount from the open market should be made.

54. Apart from the next door let however, the local listings noted are not particularly comparable. This is fairly typical for rural locations where there is a relatively low level of market activity reflecting the lower population density. However, even if comparable local open market rentals could be found, the same extensive adjustments would have to be made to allow for the condition of the subject property.
55. The condition of the property, although wind and watertight is poor. It would take significant capital expenditure to bring it up to a standard where it could be offered on the open market. That is before any consideration of any higher standard relating to insulation and low carbon heating. Accordingly, this method of assessing a fair rent in this case is seen as fairly inaccurate and less than desirable.
56. The comparable registered rents for three bedroom cottages (all within 15 miles of the property, in similar rural locations) were then considered. These were:
 - (a) Inchtute, 5 Monecht Cottages, Echt, Skene, AB32 6UN at £7,200 (semi-detached, registered 27 March 2025);
 - (b) Lochhead Cottage, Skene, AB32 6YJ at £7,320 (detached, garage, registered 25 March 2025) and
 - (c) Newcroft Cottage, Cairnie, Skene, AB32 6SS at £6,750 (detached, registered 5 March 2025).

The two bedroom cottages within the same radius were:

- (i) 1 Easter Culfossie Cottage, AB32 7AS at £6,800 semi-detached with garage, registered 7th March 2025.
 - (ii) 2 Catterloch Cottages, AB31 4EX at £6,840 detached with parking. No heating. Registered 9th April 2025
57. These properties could be viewed from a distance and could be seen to be of similar age and location. The tribunal are unable to know the condition of the

comparables but they are within a relatively narrow band of value and it is reasonable to assume that the rent Officer has inspected or has knowledge of the condition of these properties.

58. Unfortunately, there are no Energy Performance Certificates registered for any of these properties so no further insight into double glazing, size and the like that these certificates can provide is available.
59. The Tribunal then considered the third method of valuation, calculating the appropriate return based on the capital value of the property. This is an inherently inaccurate calculation, particularly for rural properties where the open market value is difficult to establish because of the lack of comparable evidence, where the rate of return to be used is arguable and, in this case, where the allowance for condition would then have to be taken into account, adding to the subjectivity of the end result. This method is usually used as a last resort where there is a dearth of rental or registered rent comparables available. Neither party offered any evidence nor preference for this approach. There are open market and registered rent comparables available. For all the reasons above, the Tribunal decided that it would be inappropriate to try to use this method in this assessment.

The valuation

60. Having considered all of the above, the Tribunal took the view that the best available evidence is that of the registered rents in the area although it is noted that they are generally from early 2025. Five comparable properties within 15 miles in a rural location is rare. As noted, these are within a relatively narrow band of value. Assessing the value by comparing the property with No 1 although an apparently attractive option relies on many estimated adjustments to reflect the significant difference in condition and have produced a figure well below those of the comparable registered rents in the area. If the Tribunal took this lower figure or even somewhere in between, it would result in the subject property being a notable outlier compared to other registered rents in the area.

61. Taking the registered comparables in turn. 5 Monecht Cottages appears the most comparable. Registered rent £7,200.
62. Lochhead Cottage has an outbuilding/garage. It is also detached but appears smaller. Allowing for these differences gives an adjusted figure of £7,000.
63. Newcroft Cottage has outbuildings as well as being detached and with central heating but is noticeably smaller. Adjusted gives a figure of £7,000.
64. No. 1 Easter Culfossie Cottage has 2 bedrooms and garage but a poorer location. Adjusted gives a figure of £7,100.
65. No. 2 Catterloch Cottages is detached but has 2 bedrooms and no heating. Adjusted gives a figure of £7,540.
66. After adjusting for the differences the registered rents have a band of value of £7,000 to £7,540. As was noted, these rents were set in early 2025 but the Citylets report suggests that rents for 3 bedroom properties have only risen 1.8% over the last year and therefore no further adjustment is made.
67. Having regard to all of the above, the Tribunal considers that the Rent Officer's valuation is a fair rent at £7,380 per annum (£615 per month). This sits well with these other registered rents in the area and comparisons with these other registered rentals is considered a more accurate and therefore the most appropriate method of arriving at a fair rent for 2 Craigmyle Cottages.
68. In accordance with section 50(4) of the 1984 the registration of this rent takes effect from the date of this decision.

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.

30 September 2026

Iain MacRae Legal Member

Date