

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') in connection with an application by the Tenant under sections 24(3) of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/RA/18/0176

The Property is Room 1, Holmhead House, 7 Rhannan Terrace, Cathcart, Glasgow, G44 3AN ('The Property')

The Parties:-

The Tenant is Charles Haggerty (represented by his agent Shelter Scotland, Glasgow Advice Service, 116 Osborne Street, Glasgow, G1 5QH) ('the Tenant')

The Landlords are Thomas McGovern and Rhonda Wheate (represented by their agents Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG) ('the Landlords')

The Tribunal members are Jacqui Taylor (Chairperson) and Mike Links (Ordinary Member).

1. BACK GROUND

The Tenant became a statutory assured tenant of the Property, following service of the Notice to quit dated 20th September 2017. The Tenant has resided in the Property since approximately 4th March 2016. The Landlords purchased the Property on 26th May 2017. A copy of an Assured Tenancy agreement was exhibited to the Tribunal, but it had never been signed by the Tenant.

The Tenant is currently paying rent of £4440 per annum (£370 per month).

The Landlords applied for an increase in the rent when they served the Tenant with a notice of increase of rent on form AT2, dated 11th September 2017. The Landlords sought to increase the rent to £6300 per annum (£525 per month). The Tenant objected to the increase and applied for the rent to be reviewed on form AT4 dated 18th January 2018.

2. JURISDICTION

In terms of section 24(2) of the Housing (Scotland) Act 1988, it is necessary for the Landlords to serve the Tenant with a correctly completed form AT2, giving at least one months notice and a maximum of six months notice of an increase in rent. The Landlords had correctly served the Tenant with a notice of rent increase on form AT2. As stated, the form was dated 11th September 2017 and it advised that the new rent of £6300 per annum (£525 per month) would take effect from 12th March 2018. The Tribunal were satisfied that they had jurisdiction to hear the application.

3. DIRECTION

The Tribunal sent the parties a Direction dated 10th April 2018. The Direction explained that in determining the market rent for the Property the Tribunal are required to consider the rentals of comparable properties in the locality. The Tribunal advised that they had sourced the following rental information:

- Details of nine comparable properties being advertised for rent by Martin & Co. Copies of the extracts were provided.

The parties were directed to provide the Tribunal with representations and any further information with regards to the said rental information of comparable properties in the locality by 19th April 2018.

The Tenant did not provide the Tribunal with any representations in response to the Direction.

The Landlords provided written representations which stated that the comparable properties provided by the Tribunal are not comparable as the rent Mr Haggarty pays includes council tax, electricity, gas, furnishings and insurance. They also stated that the properties in Govanhill are in a less desirable area and should be disregarded.

4. THE INSPECTION

The Tribunal inspected the Property on the morning of 26th April 2018. The Tenant was present at the inspection. The Landlords did not attend the inspection but were present in the reception hallway of the main building when the Tribunal arrived for the inspection.

The Tribunal inspected the Property, which is an attic bedsit situated in a detached Victorian grey sandstone villa which extends to three storeys and attic. The

accommodation comprises one room with ensuite off. The windows in the Property are double glazed. The Property is connected to the central heating system that serves the whole property. The Landlords have supplied some of the furniture and appliances in the Property. The Tenant also has use of a washing machine and tumble drier that are situated in a cupboard in the hall outside the Property.

The services of electricity and gas and council tax charges are included in the rent.

The floor area of the property is approximately 22 square metres.

The Property is well located for local amenities and public transport.

5. THE HEARING

Charles Haggarty, the Tenant, attended the hearing, along with his representative Claire Strong of Shelter. The Landlords also attended the hearing.

The Tenant advised the Tribunal:-

- The proposed rent of £525 is too high.
- The comparable rents that have been provided by both the Tribunal and the Landlords are not comparable as they are for one bedroom flats which are very different from his bedsit.
- There are no other comparable properties available to rent in the area for a monthly rent of £370.
- He considers the present rent of £370 to be a fair rent.
- He confirmed that he never signed a lease for the Property but the unsigned lease that has been produced largely reflects the terms of his tenancy with the Landlords.

The Landlords advised the Tribunal:-

- When Mr Haggarty first leased the property it was part of an HMO property which he shared with approximately ten other tenants. Since the Landlords bought the Property in May 2017 his amenity has improved greatly as the Property is now part of the Landlords family home.
- They stated that the comparable evidence produced by both the Tribunal and themselves is not truly comparable as the properties are largely one bedroom flats and consequently are substantially larger properties. Also the rents of those properties do not include electricity, gas and council tax charges.

- They explained that there is not a separate meter to measure the electricity and gas that is used by Mr Haggarty. They cannot quantify the cost to them of providing these utilities.

6. THE DECISION

The Tribunal had the following documents before them:-

- A copy of the unsigned lease.
- A copy of form AT2 advising that the rent would be increased to £6300 from 12th March 2018.
- A copy of form AT4 completed by the Tenant, requesting a determination of the rent.
- Written representations from the Tenant's agent as follows:-

'Mr Haggerty's assured tenancy began on 4th March 2016 when Mr Yan Shao was the non resident Landlord.

The Property was then sold to Mr McGovern and Mrs Wheate. We have asked BKF to confirm the exact sale date of the property but this information has not been passed on.

Mr McGovern and Mrs Wheate are now residing in the building but we are of the opinion that Mr Haggerty's assured tenancy continues as his tenancy was granted prior to Mr McGovern and Mrs Wheate occupying the Property.'

- Written representations from the Landlords in the following terms:
 - *The rent of £370 was set by the previous landlords and was fixed at a depressed rate as the house was being run as a HMO.*
 - *As the Property is now a family home this has vastly decreased the volume of noise, traffic, mail, security risks, disturbances etc in and around the property.*
 - *Since purchasing the property they have done extensive work on the interiors and exteriors. This has included painting, laying some new flooring and removing carpets, remodeling what were bedsit rooms to remove kitchens and bathrooms, creating a family kitchen and living room, replacing tiling, paneling, plaster, curtains, shelving, piping and*

plumbing. The property is in a far better condition and repair than it was in March 2016, or when they purchased it in 2017.

- *Charles Haggarty inhabits a room that includes a modern ensuite with a double glazed opening velux window and heated towel rail; large double glazed opening velux windows giving extensive views to north and south including views of White Cart Water; central heating; private cooking facilities. Directly adjacent to the room is a large utility cupboard containing a washing machine and brand new tumble drier, used exclusively by Charles Haggarty. This is different to when the house was used as an HMO where the tenants shared a communal laundry etc. In Charles Haggarty's case his communal laundry was actually three floors below his room and was shared by a minimum of six other tenants.*
- *Charles Haggarty states in the AT4 that the central heating is 'intermittent'. We are confused by this. Having discussed the heating with us on many occasions Charles Haggarty knows that the central heating is on a timer and runs seven days a week from 5am to midday and from 4pm to 11pm. We also provided Charles Haggarty with a brand new electric heater for his personal use at any time. So intermittent heating is a surprise to us.'*
- *They provided the following comparable rents, but explained that these properties do not include council tax, gas, electricity etc which is included in Charles Haggarty's rent:*
 - *1 bedroom flat, part furnished, Bolton Drive, Mount Florida £595 pcm + bills.*
 - *1 bedroom flat, unfurnished, Dundrennan Road, Battlefield £450 pcm + bills.*
 - *1 bedroom flat, unfurnished, Cathcart Road, Mount Florida £450 pcm + bills.*
 - *1 bedroom flat, unfurnished, Clarkston Road, Muirend, £425 pcm + bills.*

- *1 bedroom flat, unfurnished, Lochleven Road, Battlefield £525 pcm + bills.*
- *1 bedroom flat, unfurnished, Holmhead Crescent, Cathcart £495 pcm + bills.*
- *1 bedroom flat, unfurnished, Cordiner Street, Mount Florida £525 pcm + bills.*
- *They also provided excerpts from Citylets Quarterly Report Q4 2017 which stated, inter alia:-*
 - *The average rent in Glasgow was £742 per month, which was more than the national average.*
 - *The average rent of a one bedroom flat in Glasgow was £583 per month.*
 - *The rents of one bedroom flats in Glasgow had increased by 7% in the year.*

The Tribunal considered these documents and the parties' written and oral representations.

The Tribunal acknowledged that the evidence of comparable properties produced by both the Tribunal and the Landlords were larger one bedroom properties and the accommodation of these properties would probably comprise bedroom, living room, hall, vestibule, kitchen and bathroom. They considered that the floor area of these properties would probably be in the region of 70- 80 square metres and consequently they are three or four times the size of the subject property. However they recognised that the rent of the subject property is 'all inclusive' and includes charges for utility bills, insurance and council tax.

They noted that the rents of the one bedroom properties detailed in the list of comparable provided by both the Landlords and the Tribunal (disregarding the properties located in Govanhill) were in the range of £395 to £595. They considered that it was appropriate to take the base comparable rent of the subject Property at the high end of this scale due to the quiet and desirable location of the subject Property. However as the subject Property is approximately one third the size of the comparable properties (after taking account of the laundry facilities available to the Tenant) they

determined that the base rent of a property the same size as the subject property is £200 per month.

They further considered that it is reasonable to increase the base rent by 15% due to the fact that furniture and appliances are provided by the Landlords resulting in a base comparable rent of £230.

They also applied their knowledge and experience and considered that the council tax charge for a similar property would amount to approximately £70 per month, taking account of the 25% reduction for single occupancy, and the estimated cost of gas and electricity charges would amount to approximately £70 per month.

In view of the foregoing, the Tribunal determined that the open market rent for the Property was £4440 per annum (£370 per month).

In reaching this decision the Tribunal have had regard to all the considerations required to be taken into account in terms of Section 25 of the Housing (Scotland) Act 1988.

The Tribunal decided that the rent of £4440 per annum should take effect from 12th March 2018, the date indicated in the Landlord's AT2 form which had been served on the Tenant.

A landlord, tenant or third party applicant 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.

J Taylor

Chairperson, 28th April 2018

Housing and Property Chamber

First-tier Tribunal for Scotland



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PHOTOGRAPH SCHEDULE

PROPERTY: ROOM1, HOLMHEAD HOUSE, 7 RHANNAN TER, GLASGOW G443AN

REFERENCE: FTS/HPC/RA/18/0176

DATE OF INSPECTION: 26TH APRIL 2018

PHOTOGRAPHS: ALL PHOTOGRAPHS TAKEN ON DAY OF INSPECTION



FRONT ELEVATION



ROOM TO FRONT



ROOM TO REAR



SHOWER ROOM/WC



DETECTOR IN ROOM



STAIRWAY TO ATTIC FLOOR