



First-tier Tribunal for Scotland (Housing and Property Chamber)

**Statement of Reasons for Decision of the First-tier Tribunal for Scotland
(Housing and Property Chamber (hereinafter referred to as “the
tribunal”) under Section 24 of the Housing (Scotland) Act 1988**

Case Reference Number: FTS/HPC/RS/24/1971

Parties

**Ms. Elizabeth Christison and Mr. Peter Hamilton (“the
tenants/applicants”)**

Ms. Louise Gardner. (“the landlord/respondent“)

Re the property at 144 Second Avenue, Uddingston Glasgow G71 6BG..

The Tribunal consisted of:-

Mr James Bauld - Chairperson

Mr. Robert Buchan - Surveyor member

Introduction:-

1. This is a reference to tribunal in respect of the property at 144 Second Avenue, Uddingston Glasgow G71 6BG.
2. The landlord is Ms. Louise Gardner. The tenants are Ms. Elizabeth Christison and Mr. Peter Hamilton.
3. On 1 April 2024 the landlord served a notice on the tenants indicating that she intended to increase the rent on the property from £550.00 per month to £850.00 per calendar month with effect from 2 July 2024.
4. The tenants timeously objected to that proposed increase by referring the proposed increase to the tribunal by lodging Form AT4 dated 8 May 2024.



5. The matter was referred to a tribunal and both parties were invited to make written representations. Both parties were also notified that an inspection and hearing would take place and were invited to attend the inspection and hearing. The tribunal members attended to carry out the inspection on 14 October 2024 at 10.30 a.m. but were unable to obtain access for reason set out in the note subsequently issued to parties. A hearing was held on the same day.
6. Subsequent to the hearing, the tribunal issued a note to the parties inviting further representations. The tribunal indicated it required sight of the tenancy agreement to enable it to make a decision.
7. The tribunal directed the landlord to provide a copy of the tenancy agreement no later than 8 November 2024 and indicated that upon its receipt and examination the tribunal would issue its decision to parties or alternatively issue directions to parties regarding further procedure.

Discussion

8. The landlord provided written representations by email dated 6 November 2024 which included a copy of the tenancy agreement.
9. A copy of the response from the landlord was sent to the tenants and they were invited to respond. No further response was received from them.
10. The tenancy agreement produced shows that the tenancy held by the tenants is a short assured tenancy under and in terms of the Housing (Scotland) Act 1988.
11. The relevant law contained in Section 34(3) of the Housing (Scotland) Act 1988 only allows the tribunal to make a determination in respect of the rent in a short assured tenancy in the following circumstances, namely where it considers

“ (a) that there is a sufficient number of similar houses in the locality let on assured tenancies (whether Short Assured Tenancies or not) and

(b) that the rent payable under the Short Assured Tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to be able to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a)”



12. Neither party had provided any information to the tribunal which demonstrated the current rent in any existing assured or short assured tenancy within the general area of the property. The information which had been provided in respect of currently advertised rents related to properties which would be let on private residential tenancies under and in terms of the Private Housing (Tenancies) (Scotland) Act 2016.
13. The tribunal could find no information relating to any existing assured or short assured tenancies within the general area. There is no central register of such existing rents provided by any organization which is available either to the tribunal or to the general public.
14. The applicants had confirmed at the hearing that the rent had never been increased since the start of the tenancy in 2017. During the hearing and in the subsequent note issue to parties, the tribunal indicated to the applicants that if the rent had been increased each year by 4% it would now be £725. If it had increased in line with the Office of National Statistics Consumer Price Index figures, then the rent would be approximately £702 per month. The relevant link can be found at <https://www.ons.gov.uk/generator?format=xls&uri=/economy/inflationandpriceindices/timeseries/l522/mm23>

Decision

15. In the absence of any information relating to rent for comparable properties on short assured tenancies or assured tenancies in the area, the tribunal is unable as a matter of law to make any determination given the specific provisions of section 34 of the 1988 Act
16. However, the tribunal requires to consider whether the provisions of the Rent Adjudication (Temporary Modifications) (Scotland) Regulations 2024 (“the 2024 Regulations”) apply to this tenancy. These Regulations have introduced a maximum rent increase of 12% in certain circumstances set out more fully in the regulations.
17. Reference is made to a recent Upper Tribunal decision, **Mark & Robert Horne against Slash Property Ltd [2024UT36] UTS/AP/24/0020** . in that decision Sheriff O’Carroll held that the then existing rent cap provisions did not apply.



“ where the parties have agreed in a tenancy agreement that the landlord may increase the rent, with or without any restrictions on amount or times or formulae, the (law) does not interfere with that agreement”.

18. He went on to indicate that the restrictions contained in the 2024 Regulations continued to apply in the same way and that his decision would continue to “be of contemporary relevance”.
19. The tribunal have reviewed the terms of the short assured tenancy agreement which has been exhibited. It contains no terms by which the landlord may proceed to increase the rent.
20. The tribunal, taking into account the provisions of the 2024 Regulations and the Upper Tribunal decision, concludes that the 2024 Regulations apply to this tenancy. Any rent increase where notice has been given to the tenant on or after 1 April 2024 and prior to 31 March 2025 is affected and is therefore restricted to a maximum of 12%, being the maximum increase which is allowed in terms of those regulations.
21. That maximum increase would allow the current rent of £550 to be increased to £616. That maximum increase only applies where the market rent for the property is 24% higher than the current agreed rent
22. The current rent is £550. The figure which would be 24% higher than that would be £682. The tribunal is aware that the general level of market rents for similar properties in the area is in the region of £700 to £750 per month and therefore the tribunal accepts that market rents are more than 24% higher than the current rent. These figures generally reflect the figures mentioned at paragraph 14 above in relation to inflation adjusted amounts.
23. The tribunal is thus willing to allow the maximum 12% increase as allowed by the 2024 Regulations.
24. The tribunal accordingly determines that the rent to be applied from 1 July 2024 is £616 per month being the maximum amount permitted in terms of the 2024 regulations and not the £850 sought by the landlord.

Right of Appeal

In terms of Section 46 of the Tribunal (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

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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

J Bauld

Signed **Date** **3 January 2025**

James Bauld, Chairperson