

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/RS/24/3602

Flat 0/2, 10 Clark Street, Renfrew, PA4 8JG (the Property')

The Parties:

Andrzej Jasniewski residing at Flat 0/2, 10 Clark Street, Renfrew, PA4 8JG ('the Tenant')

Daniel Thomas ('the Landlord')

Ian Anderson-Troy Penny Lane Homes in Renfrew Limited, 10-12 High Street, Renfrew PA4 8QR ('the Landlord's Representative')

Tribunal members:

Jacqui Taylor (Legal Member) and Carol Jones (Ordinary Member)

1. Background.

Andrzej Jasniewski is the tenant of the Property in terms of a short assured tenancy granted by the Landlord dated 8th December 2009.

The Landlords' representative provided the Tribunal with a copy of the form AT5 dated 8th December 2009.

The commencement date of the short assured tenancy was 16th December 2009.

The initial terms of the tenancy was from 16th December 2009 to 16th June 2010. There was no provision in the lease for it to continue on a month by month basis. The tenancy was continuing by tacit relocation six monthly with the ish dates being 16th December and 16th June. The initial rent was £400 per month.

The Tenant sent an AT4 application to the Tribunal dated 6th August 2024 which stated that the current rent paid by the Tenant is £475 per month. The Landlord had sent the

Tenant a letter dated 27th June 2024 advising him that the rent would increase to £800 per month with effect from 16th September 2024.

2. By Notice of Acceptance by James Bauld dated 12th August 2024, he intimated that he had decided to refer the application (which application paperwork comprises documents received between 6th August 2024 and 6th August 2024) to a Tribunal.

3. Notification of the AT4 application.

The parties were sent letters dated 13th December 2024 advising that the Tribunal has received the AT4 application seeking a review of the rent for the short assured tenancy. The letter advised that the Tribunal would only make a determination of rent for a short assured tenancy, if they consider, from the evidence provided to them by the parties that there is a sufficient number of similar houses in the locality let on assured tenancies and that the rent payable for the tenancy under consideration is significantly higher than the landlord might reasonably expect to receive having regard to rent levels of similar tenancies in the area.

4. THE INSPECTION

On the morning of 31st January 2025 the Tribunal inspected the Property. The Tenant was present at the inspection. The Landlord was not present and was not represented.

The property is a ground floor flat in a three storey modern block of flats which was constructed in 2007 and is located in within the town of Renfrew, around 3 miles north-east of Paisley in Renfrewshire.

The accommodation comprises a living room, two double bedrooms with fitted wardrobes, kitchen and internal bathroom. The principal bedroom has an en-suite shower room. The gross internal floor area is approximately 72 square metres.

There is a gas central heating system in the Property. The windows throughout the Property are double glazed. There is parking is available at the property.

The Landlord provided the cooker and hob, fridge freezer and washing machine and also the carpets and floor coverings throughout the Property. No furniture had been provided by the Landlords.

The Property is conveniently situated for public transport and local services.

5. WRITTEN REPRESENTATIONS.

The Landlord's agent provided the Tribunal with a Rightmove Best price Guide which detailed rents being charged for similar modern two bedroom properties in the locality over the last year.

6. THE HEARING

An in-person hearing was scheduled following the inspection at 11.15am on 31st January 2025 at the Glasgow Tribunal Centre. The Tenant attended the hearing. The Landlord and the Landlord's representative did not attend the hearing.

The Tenant advised the Tribunal that he had no information on other assured tenancies in the area. Many of the other flats in his development are let but the tenants turn over regularly and he suspects the leases would not be short assured tenancies. He acknowledged that the Landlord had only increased the rent once since the start of the tenancy in 2009. He has offered to pay increased rent of £575 per month which the Landlord's agents have not accepted.

7. THE DECISION

The Tribunal had the following documents before them:-

- A copy of form AT4, completed by the Tenant.
- A copy of the 2009 tenancy agreement.
- A copy of the form AT5.

The parties had not provided the Tribunal with evidence of other assured or short assured tenancies in the locality.

The Tribunal were unable to find details of any other similar properties let under assured or short assured tenancies in the locality.

In terms of Section 34(3) Housing (Scotland) Act 1988 the Tribunal shall not make a rent determination unless they consider:-

'(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) above.'

The Tribunal determined that they were unable to make a determination of the Tenant's application as they were unable to comply with the preliminary condition in the terms of section 34(3)(a) of the Housing (Scotland) Act 1988, as stated.

In reaching this decision the Tribunal has had regard to all the considerations required to be taken into account in terms of Section 34 of the Housing (Scotland) Act 1988. Accordingly, the Tribunal dismissed the application.

8. Appeal

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.....

31st January

2025

Legal Member