

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision in respect of a referral to the First-tier Tribunal for Scotland Housing and Property Chamber for a Determination of Rent under Section 34(1) of The Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/RS/24/5159

**Property: Flat 2, 5 Thornbridge Court, Thornbridge Road, Falkirk FK2 9BG
("the Property")**

Parties:

**Mrs Dawn Mack and Mr Freddie Mack, both Flat 2, 5 Thornbridge Court,
Thornbridge Road, Falkirk FK2 9BG ("the Tenants")
and**

**Mrs Lesleyjane Clifford and Mr Stephen Clifford, c/o Northwood Central, 9-11
Bank Street, Falkirk FK1 1NB ("the Landlords")**

**Tribunal members: George Clark (Legal Member/Chair) and Robert Buchan
(Ordinary Member/Surveyor)**

Background

1. The lease in the present case is a Short Assured Tenancy, commencing on 1 June 2016, the original rent having been £475 per month. The Landlords gave notice to the Tenants of their intention to increase the rent from £489 per month to £695 per month from 1 May 2025. The Tenants made an application to the First Tier Tribunal for Scotland Housing and Property Chamber ("the Tribunal") for a determination of rent under Section 34(1) of

the Housing (Scotland) Act 1988 (“the 1988 Act”). The Tenants’ Notice of Referral (AT4) was dated 2 November 2024.

2. Prior to the Inspection and Hearing, the Landlords’ agents provided the Parties with details of comparable properties on which they might rely in determining the application, namely:

Thornbridge Road, Falkirk. 2-bedroom ground floor apartment, with en-suite shower room and allocated parking space, marketed from 3 December 2024 to 22 January 2025 at £800 per month.

Thornbridge Court, Falkirk. 2-bedroom upper apartment. Master bedroom with en-suite, marketed from 25 March 2024 to 24 May 2024 at £800 per month.

Thornbridge Court, Falkirk. 2-double-bedroom apartment. En-suite shower room, off-street parking, marketed from 20 November 2024 to 10 December 2024 at £795 per month.

3. The Landlords’ agents stated that the Property is ideally located close to local amenities, excellent transport links and schools, making it perfect for tenants seeking a convenient and stylish home.

The Inspection

4. The Tribunal inspected the Property on the morning of 12 June 2025. The Tenant Mr Mack was present at the inspection. The Landlords were represented by Mr James McHugh, Director, Northwood Central, Falkirk. The Tenant Mr Mack told the Tribunal Members that he recognised that the Tenants have had the advantage of a low rent for a number of years and that the reason for the application was really about the fact that a major increase was being sought in one step, rather than there having been gradual incremental increases over the period of the tenancy. As this was the only point he would have made at the Hearing, he intimated that he would not now be attending it.

The Hearing

5. Following the Inspection, a Hearing was held at Wallace House, Maxwell Street, Stirling. The Landlords' representative Mr McHugh was present. The Tenants were not present or represented.
6. The Tribunal Members advised Mr McHugh that, as the only comparable rental figures which had been provided related to Private Residential Tenancies under the Private Housing (Tenancies) (Scotland) Act 2016 and there were no comparables which were Assured or Short Assured Tenancies, the Tribunal was in the position that it would not be able to determine a rent for the property. It was clear from the evidence, however, that a current market rent would be of the order of £800 per month, so, had the Tribunal been able to determine the rent, it would not have interfered with the rent proposed by the Landlords of £695 per month.

Reasons for Decision

7. The Property is an upper flat in a two storey block of four flats with a common entrance and stair. The block is thought to be about 17 years old.
8. The accommodation comprises a living room, two double bedrooms (one of which has an en-suite shower room) and the other of which has built-in wardrobe storage, kitchen and bathroom, with bath, wc and wash hand basin. There is a secure door entry system and unallocated off-street parking. The gross internal area is 65 square metres or thereby.
9. The Property has gas central heating with a combi-boiler, and the windows are modern upvc double-glazed units.
10. The Property is let unfurnished and is in good order throughout. The carpets and floorcoverings, fridge freezer and washing machine were provided by the Landlords
11. The Property is situated in a predominantly residential area close to public transport, motorway links, schools and other local amenities.

12. Section 34(1) of the 1988 Act provides that the tenant under a Short Assured Tenancy may make an application to the Tribunal for a determination of the rent which in the Tribunal's opinion, the landlord might reasonably be expected to obtain under the Short Assured Tenancy.
13. Section 34(3) of the 1988 Act states that where an application is made to the Tribunal under Section 34(1), the Tribunal shall not make such a determination unless 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).
14. The Tribunal was unable to determine that there is a sufficient number of similar houses in the area let on Assured Tenancies and had no evidence before it of rental figures for any comparable properties let on assured tenancies.

Decision

15. Having taken all factors into account the Tribunal determined that, in terms of Section 24(3) and 34(1) of the Housing (Scotland) Act 1988, it could not find that there is a sufficient number of similar, or at least comparable, houses in the locality let on assured tenancies and that, as a result, the Tribunal could not make a finding that the rent sought 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 assured tenancies in the locality. Accordingly, the Tribunal was unable to make a determination of rent in the present case.

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 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

G Clark

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(Legal Member/Chair)

Date: 12 June 2025