



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

Determination by 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 FTS/HPC/RS/25/0617

Parties

Adriana Alcaraz Sanchez and Calam Pengilly (Applicants)

Ian Davidson (Respondent)

Flat 0/2 64 Fergus Drive , Glasgow, G20 6AW (House)

The Tribunal consisted of:-

Mr James Bauld - Chairperson

Ms Sara Hesp - Ordinary member

Introduction:-

1. This is a reference to the tribunal in respect of the property at flat 0/2 64 Fergus Drive , Glasgow, G20 6AW.
2. The landlord is Mr. Ian Davidson. The tenants are Ms. Adriana Alcaraz Sanchez and Mr.Calam Pengilly.
3. The tenancy is a short assured tenancy under the Housing (Scotland) Act 1988 (“the Act”). It commenced on 19 September 2017.



4. On 15 January 2025, the landlords' letting agent, Gardiner Waters Limited, served a notice on the tenants indicating that they intended to increase the rent on the property from £970.00 per month to £1,025.000 per calendar month with effect from 1 April 2025.
5. The Landlord's agent did not use form AT2 to give notice of intention to increase the rental. Instead, they used a form prescribed by The Private Housing (Tenancies) (Scotland) Act 2016.
6. The tenants objected to that proposed increase by referring the proposed increase to the tribunal by lodging Form AT4 dated 11 February 2025.
7. The matter was referred to a tribunal and both parties were invited to make written representations.
8. Both parties were also notified that an inspection and hearing would take place and were invited to attend the inspection and hearing. The inspection took place at the property on 17 July 2025 at 10.00 a.m. and a hearing took place on the same day at 11.45 a.m.

The Inspection

9. The inspection took place at 10.00 a.m. on 17 July 2025. Ms Alcaraz was present and allowed the tribunal members access to the house. Neither the landlord nor any representative was present.

The hearing

10. The hearing was not attended by the applicants. Neither the landlord nor anyone from the letting agency attended.

Findings in fact

11. The parties entered into a short assured tenancy on 19 September 2017.
12. On 15 January 2025, the Respondent's agent served a notice, bearing to be under and in terms of the Private Housing (Tenancies)



(Scotland) Act 2016 seeking to increase the rental from £970.00 per month to 1,025.00 per month with effect from 1 April 2025.

13. The notice incorrectly told the tenant that she could challenge the proposed rent increase by applying to the Rent Officer.
14. On 11 February 2025, the Applicant served form AT4 and applied to the Tribunal for a determination of the rental.
15. The property is a flat on the ground floor of a traditional sandstone tenement block. The property has one bedroom, a living room, kitchen and bathroom. It benefits from gas central heating and double-glazed window units.
16. The tenant provided a link to an online list of comparable rental figures for similar properties.

Reasons for Decision

17. The tenancy is a short assured a tenancy under the Housing (Scotland) Act 1988 (“the 1988 Act”).
18. Rent increases in assured tenancies are governed by section 24 of the 1988 Act which requires the landlord to serve a notice of intention to increase rent in the prescribed form if there is no clause in the agreement which provides for a rent increase.. The prescribed form is a form AT2.
19. There is a clause in the tenancy agreement which makes provision for an increase in rent limited to 3.5% each year. The landlord is therefore obliged to serve a notice seeking any higher amount in the form prescribed by section 24(1) of the 1988 Act (i.e. an AT2). The increase sought by the landlord of £55 is in excess of 3.5% of the exiting rent of £970.00.
20. The notice of intention to increase rent was served by reference to The Private Housing (Tenancies) (Scotland) Act 2016, using the form prescribed by that Act in relation to private residential tenancies and



incorrectly advised the tenant that she could challenge the notice by referring the notice to the Rent officer.

21. The notice of increased rent should have been served under the Housing (Scotland) Act 1988. The notice refers to the wrong statute and does not advise the tenant of her appeal rights. The notice is defective in form and so is invalid.
22. No valid notice of intention to increase rent has been served. There cannot, therefore, be an increase in rental.
23. Neither the landlord nor any agent appeared at the hearing to make any submissions relating to the validity of the notice served nor had they done so in the written submissions lodged prior to the hearing.

Decision

No valid notice of intention to increase rent has been served. The proposed increase in rent is based on a notice which is legally defective in form and is thus invalid and cannot be enforced.

J Bauld

1 August 2025

Signed ...

Date

James Bauld, Chairperson