

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/25/1760

Flat 1/1, 21 Huntly Gardens, Glasgow, G12 9AU (the Property')

The Parties:

Professor Andreas Brunklaus ('the Tenant')

Mrs Luay Kersan ('the Landlord')

Connor McNulty, D J Alexander, 10 Sunnyside, Edinburgh, EH7 5RA ('the Landlord's Representative')

Tribunal members:

Jacqui Taylor (Legal Member) and David Godfrey (Ordinary Member)

1. Background.

The Applicant is the tenant of the Property in terms of a short assured tenancy granted by the Landlord dated 24th February 2016.

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The commencement date of the short assured tenancy was 1st April 2016. The initial terms of the tenancy was from 1st April 2016 to 2nd October 2016. The Tenant sent an AT4 application to the Tribunal dated 22nd April 2025 which stated that the current rent paid by the Tenant is £1344 per month. He produced a copy of the AT5 notice dated 26th February 2016 and an AT2 Notice, which was illegible.

2. By Notice of Acceptance by James Bauld dated 7th May 2025, he intimated that he had decided to refer the application (which application paperwork comprises documents received on 24th April 2025) to a Tribunal.

3. Written Representations by the Tenant dated 2nd September 2025

The Tenant provided details of the condition of the Property including the fact that the main bedroom and bathroom have been uninhabitable since 29th March 2025 due to a water leak from the flat above and that he asked the Landlords for a rent reduction of 33%.

4. Written Representations by the Landlord's Representative dated 1st September 2025.

The Landlord's Representative provided written representations in the following terms:

'In relation to the proposed rental increase:

The tenancy is a Short Assured Tenancy under the Housing (Scotland) Act 1988. It commenced 1st of April 2016. On the 1st of April 2025 DJA served a notice (AT2) on the tenants under Section 24(1) of the Act indicating that we intended to increase the rent on the property from £1,344 per month to £1,545.60 per calendar month with effect from 1st July 2025 (However, the landlord did agree to delay this till the 1st of September 2025)

The tenancy agreement allows a rent increase based on two month's notice.

Given the current supply-demand imbalance in the area, particularly its high appeal to professionals, the rental value provided for a 2 bedroom in an affluent area of Glasgow's west end is in line with local market rates.

We would propose that the open market rent achievable for this property would be at a level where the proposed rent would not be significantly higher than those rents. We would also propose that market rents in the area are higher than the rent proposed.

We would also reference 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".

In relation to the maintenance both DJ Alexander and the landlord have acted in good faith throughout the maintenance process and have remained attentive and responsive to all requests. Due to the ornate features which required repair, sourcing

a contractor able to carry out the work to the desired standard did take slightly longer than we would have desired. However, we are confident that the tenant was able to continue to enjoy the property in this time.

He provided a report on six comparable rental properties within the Glasgow G12 postcode. The rents of those properties ranged from £1650 to £1795 per month.'

5. THE INSPECTION

On the morning of 24th September 2025 the Tribunal inspected the Property. The Tenant and Connor McNulty, the Landlord's Representative, of D J Alexander were present at the inspection.

The property is a first floor flatted dwellinghouse in a converted four storey end terrace substantial blonde sandstone villa built around the turn of the last century.

The accommodation comprises a large living room, two bedrooms (one of which had a shower room ensuite), kitchen and bathroom. The gross internal floor area is approximately 132 square metres (in terms of the Energy Performance Certificate).

There is a gas central heating system in the Property. The windows throughout the Property are single glazed. Restricted on street parking is available at the Property.

The Landlord provided the white goods in the kitchen and also the carpets and floor coverings throughout the Property. The Property is let substantially unfurnished.

There had been water ingress into the main bedroom and the hall due to a leak from the property above, which has been repaired. The affected areas have been redecorated and recarpeted. At the inspection there was a dehumidifier in the hallway which was in operation.

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

6. THE HEARING

An in-person hearing was scheduled following the inspection at 11.30am on 24th September 2025 at the Glasgow Tribunal Centre.

The Tenant and Connor McNulty attended.

6.1 Connor McNulty provided the Tenant and the Tribunal with a legible copy of the AT2 dated 1st April 2025 which stated that the rent would be increased to £1545.60 from 1st July 2025.

6.2 The parties agreed the following facts:

The lease was a short assured tenancy.

The Landlord's Representative had served the AT2 Notice on the Tenant dated 1st July 2025.

The Tenant had not been served with a notice to quit.

The Landlord had agreed that the rent increase would be deferred from 1st July 2025 to 1st September 2025.

6.3 Oral representations by Connor McNulty.

6.3.1 Mr McNulty explained that he has provided evidence of comparable rents which show that rents of £1700/ £1750 per month are deliverable. He accepted that these tenancies will be private residential tenancies.

6.4 Oral Representations by Professor Andreas Brunklaus.

6.4.1 Professor Brunklaus advised that the initial rent at the start of the tenancy in 2016 was £1100 per month. Last year the rent increased to £1344 per month, which he accepted. This year the rent was increased by 15% to £1545.60. He was served with the AT2 with details of the rent increase one week after the Property suffered major water ingress from the flat above which caused a major disruption to his occupation of the Property whilst the repair works were being carried out. He tried to reach out to the Landlord to negotiate matters but she did not reply to his emails. He acknowledged that the rent increase had been deferred by two months which amounted to a saving of £400. He confirmed that he did not have any evidence of rents of comparable short assured or assured tenancies.

7. THE DECISION

The Tribunal had the following documents before them:-

- A copy of form AT4, completed by the Tenant.
- A copy of the AT2 notices dated 2024 and 2025 .
- A copy of the tenancy agreement.
- A copy of the AT5 notice.

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

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Legal Member

24th September 2025