

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') in connection with an application by the Tenant under section 24(3) of the Housing (Scotland) Act 1988.

Chamber Ref: FTS/HPC/RA/20/1660

The Property is 42 Gladsmuir Road, Glasgow, Hillington, G52 2HX("The Property")

The Parties:-

The Tenant is Miss Agnes Anderson ('the Tenant')

Gauld Properties Limited ('the Landlords')

The Tribunal members are Jacqui Taylor (Chairperson) and Mike Links (Ordinary Member).

1. Background

The Tenant is a statutory assured tenant of the Property.

The Tenant is currently paying rent of £4104 per annum (£ 342 per month).

The Landlords applied for an increase in the rent when they served the Tenant with a notice of increase of rent on form AT2, dated 13th February 2021. The Tenant objected to the increase and applied for the rent to be reviewed on form AT4.

2. By Notice of Acceptance by Jacqui Taylor, Convener of the Tribunal, dated 19th October 2020, she intimated that she had decided to refer the application (which application paperwork comprises documents received between 6th August 2020 and 8th October 2020) to a Tribunal.
3. The Tribunal issued a Direction to the parties dated 19th October 2020 directing them to send the Tribunal written representations as to whether the correct period of notice for service of the AT2 had been given to the Applicant. No substantive responses were provided.

4. Hearing

An oral hearing by conference call took place in respect of the application on 27th January 2021.

The Tenant attended on her own behalf.

The Landlords were represented by Claire Trainer, Assistant Property Manager.

4.1 As a preliminary matter Mrs Taylor explained that in terms of section 24(2) of the Housing (Scotland) Act 1988, the Landlords require to serve the Tenant with a correctly completed form AT2, giving at least six months notice of an increase in rent as the tenancy is for a period exceeding 6 months.

Claire Trainer explained that she had posted the AT2 Notice to the Tenant on 13th February 2020, she seemed to think she had sent it by recorded delivery post but acknowledged that she had not provided the Tribunal with the recorded delivery slip. She thought sufficient notice had been given as the AT2 was dated 13th February 2020 and the AT2 stated that the increased rent would take effect from 14th August 2020.

Agnes Anderson explained that she has the envelope that was delivered to her. The postage charge was 47p, it was franked on 14th February 2020 and she received it on 15th February 2020.

5. Decision

The Tribunal found the evidence of Agnes Anderson to be very detailed and credible. The Landlords had not correctly served the Tenant with a notice of rent increase on form AT2 as six months prior notice had not been given to the Tenant. Accordingly, the Tribunal dismissed the application.

A landlord or tenant or 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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Chairperson, 27th January 2021