

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") in an Application for civil proceedings in relation to a short assured tenancy under the 1988 Act.

Chamber Ref: FTS/HPC/CV/18/0230

Re: Property at 10 Magdalene Loan, Edinburgh, EH15 3DP ("the Property")

Parties:

Kim Mooney, 15 Champigny Court Musselburgh, EH21 7HW ("the Applicant")

Romans Mamrukovs, 10 Magdalene Loan, Edinburgh, EH15 3DP ("the 1st Respondent")

Nikola Bube, 10 Magdalene Loan, Edinburgh, EH15 3DP ("the 2nd Respondent")

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and concerned an Application for civil proceedings in relation to a short assured tenancy under the 1988 Act. The purpose of the hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained to parties. Parties understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented by Kirsty Morrison, TC Young Solicitors

The 1st Respondent attended the Tribunal personally without representation.

The 2nd Respondent did not attend

Preliminary Matters

1. The Applicants legal representative sought to amend the sum for payment in the Application from £2481.61 to £1616.61. She lodged an up to date rent statement showing the respondent had reduced the outstanding rent due. Both parties present were in agreement to the Amendment and accordingly the Tribunal allowed same.
2. The Applicants legal representative sought to lodge a Sheriff Officers Certificate of Intimation regarding the 2nd Respondent, there being no objection the Tribunal allowed same.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined that under Rule 28 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 the Case Management Discussion would be adjourned until Monday 27th August 2018 at 10am for further consideration.

Facts Agreed Between Parties

1. The sum sought for payment had been reduced from the date of the Application in January 2018.
2. The 1st Respondent had made additional payments to the rent account since January 2018, in particular a payment of £600 and a payment of £1750 had been received in April 2018.
3. On 18th April 2018 parties made an agreement that the Applicant would accept from the 1st Respondent payments towards the remaining arrears of £600 per month towards rent and arrears to clear the remaining amount due. There would be a monthly amount of £105 paid towards the arrears,
4. The Applicants legal representative confirmed that the said agreement had been made but that the Applicant wished to continue with the Application.
5. Parties had no objection to an adjournment given the said agreement made.

Reasons for Decision

The Tribunal considered that in light of the overriding objective that the proceedings be dealt with justly that there was good reason that the Case Management Discussion be adjourned in terms of the rules to allow further consideration of the Application. Parties did not object to same. There had been an express agreement just prior to the hearing between parties allowing further payments towards the reduced sum due. Further the 1st Respondent had a legitimate expectation that the agreement made recently meant that no further action in respect to the said sum due would be taken against him if the payments were met. This appeared inconsistent with the terms of the

amended Application. Notwithstanding same the Applicant sought either a payment order or an adjournment to allow the 1st Respondent to meet the terms of the Agreement. Accordingly the Tribunal considered it fair, necessary and just for both parties to adjourn the application in terms of Rule 28 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

K Kirk

30/4/18

Legal Member/Chair

Date