

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014.

Chamber Ref: FTS/HPC/CV/19/1114 & FTS/HPC/CV/19/1156

Re: Property at Flat 1, 38 Burnbank Road, Hamilton, ML3 9AQ (“the Property”)

Parties:

Ms Laura Jones, c/o 5 Saffronhill Gardens, Hamilton, ML3 6AE (“the Applicant”)

Miss Katy Elizabeth Field, 22 Broughton Place, Hamilton, ML3 9HJ (“the Respondent”) (FTS/HPC/CV/19/1114)

Miss Victoria Officer, 22 Broughton Place, Hamilton, ML3 9HJ (“the Respondent”) (FTS/HPC/CV/19/1156)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment of ONE THOUSAND AND SIXTY POUNDS AND SIXTEEN PENCE (£1060.16) STERLING against the Respondent Katy Field and the Respondent Victoria Officer jointly and severally. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right to appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by either Respondent.

Background

1. By two applications both dated 5 April 2019 under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber(Procedure) Regulations 2017 (“the Regulations”) the Applicant’s Representative applied to the Tribunal for an order for payment against each Respondent in relation to rent arrears.

2. On 24 April 2019 the Tribunal accepted the applications and gave notification of acceptance of the applications to the Applicant's Representative.
3. On 3 May 2019 the Tribunal enclosed a copy of the applications and invited each Respondent to make written representations to the Tribunal by 24 May 2019. The Tribunal also advised the Applicant and the Respondents on 3 May 2019 that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 7 June 2019. This paperwork was served on each Respondent on 7 May 2019 by James Smith, Sheriff Officer, Glasgow and certificates of execution were received by the Tribunal.
4. Neither Respondent made any written representations by 24 May 2019.

Case Management Discussion

5. The Tribunal proceeded to a CMD on 7 June 2019. The Applicant was represented by Ms Bains from Happy Lets Limited. The Respondents did not appear and were not represented.
6. The Tribunal had before it a Private Residential Tenancy Agreement between the Applicant and the Respondents which commenced on 6 June 2018 ("the tenancy agreement"). The Tribunal also had before it a rent statement to 15 March 2019 showing arrears in the sum of £1230.80, an invoice from BSJ Handyman for £350 in respect of a damaged mirrored wardrobe door, an invoice for £129.36 from MJM Cleaning and a Tenancy Deposit Certificate relating to the tenancy deposit of £650 for the Property from Safe Deposits Scotland.
7. Ms Bains referred to the rent statement and explained to the Tribunal that in terms of the tenancy agreement the Respondents had left rent arrears of £1230.80 when the tenancy terminated on 15 March 2019. She made reference to the rent statement and tenancy agreement lodged.
8. The Tribunal enquired about what had happened to the tenancy deposit of £650 which had been paid to Safe Deposits Scotland. Ms Bains confirmed that Safe Deposits Scotland had returned the full deposit of £650. They had asked for the full deposit to be returned to the Applicant on the basis of the rent arrears of £1230.80, the costs for replacing a broken mirrored wardrobe door of £350 and the costs for cleaning the Property of £129.36 as per the invoices which were before the Tribunal. She explained the invoices for £350 and £129.36 had been covered in full from the deposit with the remainder of £170.64 being applied to the rent arrears of £1230.80, leaving a total balance of £1060.16 for rent arrears. Ms Bains advised she was seeking £530.08 rent arrears from each Respondent.
9. The Tribunal pointed out to Ms Bains that in terms of the tenancy agreement the Respondents were jointly and severally liable for the rent arrears and that

in the circumstances the Tribunal was prepared to issue an order for payment of £1060.16 on a joint and several basis against each Respondent.

Findings In Fact

10. The Applicant and each Respondent entered into a Private Residential Tenancy Agreement for the Property which commenced on 6 June 2018.
11. In terms of Clause 8 of the tenancy agreement the Respondents agreed to pay £550 per calendar month on 6th of each month until termination. In Section 2 of the tenancy agreement the definition of "Jointly and severally liable" is "*where there are two or more Joint Tenants, each Joint Tenant is fully liable to the Landlord for the obligations of the Tenant under this Agreement including, in particular, the obligation to pay rent*". "Tenant" is defined as meaning "*any joint Tenant or joint sub Tenant*".
12. The Respondents were joint Tenants under the tenancy agreement. They were obliged to pay rent in terms of Clause 8 of the tenancy agreement. They are jointly and severally liable for any rent arrears incurred under the tenancy agreement.
13. The tenancy agreement terminated on 15 March 2019. As at the date of termination the arrears of rent were £1230.00
14. The Respondents paid a tenancy deposit of £650 which the Applicant had placed with Safe Deposit Scotland. The deposit had been returned in full to the Applicant's representative. The invoices for £350 from BSJ Handyman and £129.36 from MJM Cleaning had been covered in full from the deposit. The remainder of £170.64 was applied by the Applicant's representative to the rent arrears of £1230.80.
15. The total balance of arrears is £1060.16.

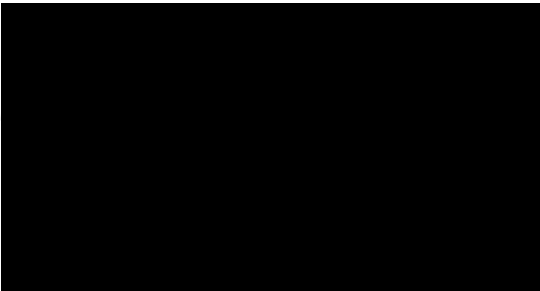
Reasons for Decision.

16. The Applicant's representative provided evidence of rent arrears in the form of the rent statement and tenancy agreement. The Tribunal was satisfied that under the tenancy agreement the Respondents had agreed to pay rent and were jointly and severally liable for any rent arrears. The Tribunal was satisfied on the basis of the tenancy agreement and the rent statement and the supporting oral submissions from Ms Bains with regard to the application of the fully returned tenancy deposit that the level of arrears had been reduced by £170.64 and that the sum she sought of £1060.16 was correct. The Tribunal was satisfied the Respondents were liable for the rent arrears on a joint and several basis.

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.



7 June 2019.
Date