



**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/21/2123

Re: Property at 3/1 Western Harbour Way, Edinburgh, EH6 6LP (“the Property”)

Parties:

Mr James Rae and Mrs Isabel Rae, 9 Maree Way, Glenrothes (“the Applicant”)

**Mr Lukasz Marczewski, sometime 3/1 Western Harbour Way, Edinburgh EH6
6LP, whose present whereabouts are unknown (“the Respondent”)**

Tribunal Member:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £2340.32.

Background

By application, received by the Tribunal on 1 September and amended on 18 November 2021, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicant. The sum sought was £2,340.32.

The Application was accompanied by a copy of a Private Rented Tenancy Agreement between the Applicant, as landlord, and the Respondent and Miss Katia Marczewska, as tenants, commencing on 27 March 2020 at a monthly rent of £1,100 and a Rent Statement showing arrears as at 21 September 2021 of £2,340.32.

The Applicant stated that the Respondent had vacated the Property on 24 August 2021 and that the damage to the Property caused by the Respondent had exceeded the deposit of £1,300.

On 2 February 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion. Personal service of the case papers on the Respondent was unsuccessful and service was effected by advertisement on the Tribunal Housing and Property Chamber’s website between 2 February 2022 and 14 March 2022.

The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 14 March 2022. The Applicant was represented by Miss Nicky Lloyd of ESPC Lettings, Edinburgh. The Respondent was not present or represented. The Applicant's representative confirmed that no payments had been received since the date of the application and asked the Tribunal to make the Order for Payment as sought without a Hearing. She advised that the application was for an Order against the Respondent alone, as the co-tenant, Miss Marczevska, his sister, had left the country, and that repairs invoices exceeding the amount of the deposit had been submitted to the tenancy deposit company, but that the deposit had not as yet been repaid to the Applicant.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal was satisfied that the sum sought had become lawfully due by the Respondent to the Applicant.

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.

Legal Member/Chair

14 March 2022
Date